

Date:19980326

Docket: C.A.144158  
C.A. 144160

NOVA SCOTIA COURT OF APPEAL

Cite as: Nova Scotia ( Finance) v. MacNeil Estate, 1998 NSCA 85

Chipman, Freeman and Flinn, JJ.A.

**IN THE MATTER OF:**

The complaint of Grant MacNeil against Her Majesty the Queen in Right of the Province of Nova Scotia represented by the Nova Scotia Department of Finance and the Nova Scotia Teachers' Union (N.S.H.R.C. Case No. 3.2.95) pursuant to the provisions of the *Human Rights Act*, R.S.N.S. 1989, c. 214, as amended

**BETWEEN:**

HER MAJESTY THE QUEEN in the right	)	Karin McCaskill
of the PROVINCE OF NOVA SCOTIA	)	for the Appellant
represented by the MINISTER OF FINANCE	)	Minister of Finance
	)	
Appellant	)	Karen A. Fitzner
	)	for the Appellant Union
- and -	)	
	)	B. Lynn Reiersen,
	)	A. Wayne MacKay,
THE NOVA SCOTIA TEACHERS' UNION	)	
Valerie A. MacKenzie	)	
	)	for the Respondents
	)	
Appellant	)	Appeal Heard:
	)	March 26, 1998
- and -	)	
	)	
THE ESTATE OF GRANT MacNEIL, THE	)	
Judgment Delivered:	)	
NOVA SCOTIA HUMAN RIGHTS	)	March 26, 1998
COMMISSION and PATRICK J. DUNCAN,	)	
Q.C., a Board of Inquiry appointed pursuant to	)	
Section 32A(1) of the <i>Human Rights Act</i> ,	)	
R.S.N.S.1989, c. 214, as amended	)	
	)	
Respondents	)	
	)	
	)	

**THE COURT:** Appeal dismissed per oral reasons of Chipman, J.A.; Freeman and Flinn, JJ.A. concurring.

**CHIPMAN, J.A.: (Orally)**

This is an appeal from a decision of a Board of Inquiry appointed under the **Human Rights Act**, R.S.N.S. 1989, c. 214, as amended, resolving preliminary motions relating to its jurisdiction.

For the reasons given by this Court in **Workers' Compensation Board (N.S.) v. O'Quinn** (1995), 147 N.S.R. (2d) 28 we are of the opinion that the administration by the appellants of the pension and other benefits at issue is capable of being considered the provision of services or facilities within the meaning of **s. 5(1)(a)** of the **Human Rights Act**. The Board of Inquiry therefore has jurisdiction to proceed with the inquiry into the complaint before it. It is not necessary, at this stage, to address the other issues raised before us and we express no opinion on them.

The appeal is dismissed without costs.

Chipman, J.A.

Concurred in:

Freeman, J.A.

Flinn, J.A.

NOVA SCOTIA COURT OF APPEAL

**BETWEEN:**

HER MAJESTY THE QUEEN in the  
right of the PROVINCE OF NOVA SCOTIA )  
represented by THE MINSITER OF )  
FINANCE )

Appellant )

- and - )

THE NOVA SCOTIA TEACHERS' )  
UNION )

Appellant )

- and - )

THE ESTATE OF GRANT MacNEIL, )  
THE NOVA SCOTIA HUMAN RIGHTS )  
COMMISSION and PATRICK J. )  
DUNCAN, Q.C., a Board of Inquiry )  
appointed pursuant to Section 32A(1) of )  
the *Human Rights Act*, R.S.N.S. 1989, )  
c. 214, as amended )

Respondents )

REASONS FOR  
JUDGMENT BY:

CHIPMAN, J.A.  
(Orally)