

CASE NO.

VOLUME

PAGE

Cite as: Black v. ABN Amro Bank Canada, 1998 NSCA 114

IN THE MATTER OF:

THE BANKRUPTCY OF NSC DIESEL INC.

FREDERICK W.L. BLACK

ABN AMRO BANK CANADA

- and -

(Appellant)

(Respondent)

- and - THE INSPECTORS OF THE ESTATE

(Intervenors)

C.A. No. 143934

Halifax, N.S.

HALLETT, J.A.
CROMWELL, J.A.
(Dissenting)

APPEAL HEARD:

June 8, 1998

JUDGMENT DELIVERED:

July 24, 1998

SUBJECT:

Bankruptcy & Insolvency Act, R.S.C. 1985, c. B-3, s. 163(2)

SUMMARY:

The appellant applied for leave to appeal and, if granted, appeals an order of Justice Hood refusing to reverse a prior decision she rendered refusing to order that Terrance Russell, a former employee of the respondent, be examined by the appellant pursuant to s. 163(2) of the **Act**.

Held: Leave to appeal was granted but the appellant failed to satisfy the Court of Appeal that on the reconsideration motion Justice Hood applied wrong principles of law or that the order she made resulted in a patent injustice (**Minkoff v. Poole and Lambert** (1991), 101 N.S.R. (2d) 143)

The Court of Appeal did vary the cost award made by Justice Hood by incorporating into its order the following provisions:

IT IS FURTHER ORDERED THAT, before the appellant can take any further proceedings in Proceeding S.H. No. 80055, he must pay all costs

outstanding on orders made by the Supreme Court of Nova Scotia or by this Court that required costs to be paid forthwith.

IT IS FURTHER ORDERED THAT, notwithstanding the provisions of the preceding paragraph of this Order, that a Judge of the Supreme Court of Nova Scotia may grant leave to the appellant to bring further proceedings or applications if circumstances are shown that it would be just to allow the appellant to initiate or continue any proceeding notwithstanding that the appellant has not complied with the cost requirements set forth in this order.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION, QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER SHEET. THE FULL COURT DECISION CONSISTS OF 31 PAGES.