

CASE NO.

VOL. NO.

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Cite as: Harbour Authority of Port Hood v. Smith, 1998 NSCA 122

HARBOUR AUTHORITY OF PORT HOOD - and - BERT COURTNEY SMITH

Appellant

Respondent

- and - ATTORNEY GENERAL
OF CANADA

Intervenor

C.A. No. 144120

Halifax

CHIPMAN, J.A.

APPEAL HEARD:

June 1, 1998

JUDGMENT DELIVERED:

June 10, 1998

SUBJECT:

**CONSTITUTIONAL LAW - JURISDICTION OF SMALL
CLAIMS COURT TO ADJUDICATE MATTERS FALLING
WITHIN FEDERAL JURISDICTION**

**COURTS - JURISDICTION OF SMALL CLAIMS COURT IN
CASES ARISING UNDER A CONTRACT**

**JURISDICTION OF COURT OF APPEAL TO HEAR APPEAL
FROM THE SUPREME COURT SITTING ON APPEAL FROM
SMALL CLAIMS COURT - AMENDMENT TO THE
LEGISLATION - WHETHER AMENDMENT AFFECTS CASES
ALREADY BEFORE THE COURT**

SUMMARY:

A Small Claims Court adjudicator awarded \$404.80 to the appellant for fees for services rendered to the respondent at Port Hood Harbour. The appellant had possession of the Harbour by virtue of a lease from the Federal Government. The Supreme Court of Nova Scotia set aside the judgment of the Small Claims Court on the basis that the claim arose out of a Federal Statute. The respondent moved at the outset to dismiss the appeal on the ground that legislation abolishing appeals to the Court of Appeal for an appeal of this type had been enacted.

ISSUES:

Did the Court of Appeal have jurisdiction to hear the appeal? Did the Small Claims Court have jurisdiction over matters falling within Federal jurisdiction and did the claim arise out of

a contract or out of a Federal Statute?

RESULT:

The Court of Appeal held that it had jurisdiction to hear the appeal notwithstanding the amendment abolishing appeals to the Court of Appeal because these proceedings had been started before the amendment to the **Small Claims Court Act** was passed. Reference was made to **Dunlop v. Anchor Towing and Recovery Limited** (1994), 128 N.S.R. (2d) 373.

The Court of Appeal following the Supreme Court of Canada decision in **Attorney General for Ontario v. Pembina Exploration Canada Limited**, [1989] 1 S.C.R. 206 held that the Small Claims Court did have jurisdiction here over matters falling within Federal jurisdiction. It also held that the claim arose out of contract not out of a Federal Statute. The appeal was allowed and the decision of the Small Claims Court restored.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER SHEET. THE FULL COURT DECISION CONSISTS OF 7 PAGES.