

CASE NO.**VOL. NO.****PAGE**

Cite as: St. Clair v. Cousins Ltd., 1998 NSCA 143

ANNA ST. CLAIR

- and -

COUSINS LTD.
(WILLIAM KANELLAKOS)

(Appellant)

(Respondent)

C.A. 142177

Halifax, N.S.

FLINN, J.A.
(orally)**APPEAL HEARD:**

October 13, 1998

JUDGMENT DELIVERED:

October 13, 1998

WRITTEN RELEASE OF ORAL:

October 13, 1998

SUBJECT:**Residential Tenancies - Recommendation of Board inconsistent with its findings - Appellate review of variation by Supreme Court judge.****SUMMARY:**

Landlord filed notice of objection to a report and recommendation of the Residential Tenancies Board. Following a hearing, the Board had found, as fact, that a certain amount of money was owing from the tenant to the landlord. However, without explanation, the Board recommended that the tenant pay to the landlord a lesser amount, than that found to be owing. The trial judge varied the recommendation, deciding that there was no logical basis for the discrepancy; and that it was obviously a clerical error. The tenant appeals.

RESULT:

Appeal Dismissed.

The Board's recommendation provided the evidence to support the finding of the trial judge that there was an error. There is no other explanation. The Board does not have discretionary authority to recommend payment of an amount of money, which is inconsistent with its own findings as to what amount of money is owing. The trial judge had the statutory authority to vary the Board's recommendation, and he made no error in law in so doing.

This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 3 pages.