

NOVA SCOTIA COURT OF APPEAL

Citation: *Nova Scotia (Environment) v. Wakeham*, 2015 NSCA 114

Date: 20151222

Docket: CA 429284

Registry: Halifax

Between:

Nova Scotia Department of the Environment

Appellant

Respondent on Cross-Appeal

v.

Sandra Wakeham and Kathryn Raymond, in her capacity
as Nova Scotia Human Rights Board of Inquiry Chair, and

The Nova Scotia Human Rights Commission and the
Attorney General of Nova Scotia representing Her Majesty
the Queen in right of the Province of Nova Scotia

Respondents

Appellants on Cross-Appeal

Judge:

The Honourable Justice David P.S. Farrar

Appeal Heard:

September 22, 2015, in Halifax, Nova Scotia

Subject:

**Human Rights. Human Rights Act. Ability of Board of
Inquiry to Amend a Complaint. Ability of Complainant to
Control the Complaint Process**

Summary:

This matter arises out of a human rights complaint the respondent filed with the Human Rights Commission against her employer, the Nova Scotia Department of the Environment. After the complaint was referred to a board of inquiry, the respondent sought to amend the complaint to add an additional ground of discrimination and to increase the period of time over which the discrimination took place by 13 years. The Board of Inquiry allowed the amendment.

Issues:

Did the Board of Inquiry err in allowing the amendment to

Ms. Wakeham's complaint?

Did the Human Rights Commission violate the rights of Ms. Wakeham by not permitting her to make the complaint in the manner of her choosing?

Result:

Appeal allowed, Cross-appeal and Notice of Contention dismissed.

The Board of Inquiry did not have the authority to amend the complaint. The Human Rights Commission controls the complaint process. The Board of Inquiry must adjudicate the complaint which was referred to her and has no authority to amend the complaint to add a new ground of discrimination nor to increase the time over which the discrimination occurred. To allow amendments at the board of inquiry stage would circumvent the legislated procedures under the *Human Rights Act* relating to the referral of complaints.

In her Notice of Contention Ms. Wakeham argued that the Human Rights Commission violated her rights by not permitting her to make a complaint in the manner of her choosing.

The respondent's arguments amounted to no more than a thinly veiled attempt for this Court to judicially review the actions of the Human Rights Commission. The argument was without merit.

As a result of determination of these two issues, it was not necessary to address the issues raised in the cross-appeal.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 24 pages.