

NOVA SCOTIA COURT OF APPEAL

Citation: *Cape Breton Development Corporation v. Nova Scotia (Workers' Compensation Appeals Tribunal)*, 2008 NSCA 72

Date: 20080731

Docket: CA 289398

Registry: Halifax

Between:

Cape Breton Development Corporation

Appellant

v.

Nova Scotia Workers' Compensation Appeals Tribunal,
The Workers' Compensation Board of Nova Scotia and
Janice O'Neill, survivor of Gerard O'Neill (Deceased Worker)

Respondents

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: May 20, 2008

Subject: Workers Compensation. Causation.

Summary: WCAT accepted the worker's widow's argument that the pain from her husband's compensable injury materially contributed to his alcoholism which in turn contributed to his death and ordered that she receive survivor benefits. Devco appealed the WCAT decision.

Issue: Did WCAT err in concluding on the record before it that the pain suffered by the worker as a result of his compensable injuries materially contributed to his alcoholism which in turn materially contributed to his death?

Result: Appeal dismissed. Standard of review on application of legal principles to the record is reasonableness. WCAT correctly applied the doctrine of *novus actus interveniens*; considered the whole of the evidence before it and did not improperly assess it;

did not err in making a decision rather than referring the matter back to the WCB for additional medical opinions as to whether the worker's pain caused his alcoholism and whether his alcoholism caused his death; did not err in basing its decision on the widow's alternative argument rather than on her primary argument that the worker's death was caused by deep vein thrombosis as opposed to coronary artery disease and made a decision that was reasonable.

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 15 pages.