

NOVA SCOTIA COURT OF APPEAL

Citation: Smith v. Michelin North America (Canada) Inc.,
2008 NSCA 107

Date: 20081120
Docket: CA 290297
Registry: Halifax

Between:

Everett Smith

Appellant

- and -

Michelin North America (Canada) Inc.

Respondent

Judge: The Honourable Justice Fichaud

Appeal Heard: October 6 and 7, 2008

Subject: Pensions - contribution holidays - costs - reimbursement of costs
by trust fund

Summary: Employer took contribution holidays during periods of actuarial surplus under a defined benefit pension plan. Members brought representative action for an order that the employer reimburse the trust fund for the value of the contribution holidays. Supreme Court of Nova Scotia dismissed the claim and ordered costs against the representative plaintiff.

Issue: Did the judge err by dismissing the claim? Did she err by not awarding costs from the trust fund to the unsuccessful plaintiff?

Result: The Court of Appeal dismissed the appeal. The pension plan's contribution clause did not contain a defined contribution formula, and retained actuarial practice that a contribution holiday is appropriate from surplus in a defined benefit plan. The claim was adversarial and the judge was entitled to award costs against the unsuccessful party.

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 32 pages.

