

<u>CASE NO.</u>	<u>VOLUME</u>	<u>PAGE</u>
BLAIR W. BOUDREAU  (Appellant)	- and - NOVA SCOTIA WORKERS' APPEAL TRIBUNAL, THE NOVA SCOTIA WORKERS' COMPENSATION BOARD and P. A. WOURNELL CONTRACTING LTD.	(Respondents)
C.A. 159172	Halifax, N.S.	Flinn, J.A. (orally)

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**[Cite as: Boudreau v. Nova Scotia (Workers' Compensation Board), 2000 NSCA 106]**

APPEAL HEARD: September 28, 2000

JUDGMENT DELIVERED: September 28, 2000

WRITTEN RELEASE OF ORAL: September 29, 2000

SUBJECT: **WORKERS' COMPENSATION** - earnings replacement benefits - denial of benefits - conclusion of appeals tribunal patently unreasonable.

SUMMARY: The Workers' Compensation Appeals Tribunal (Tribunal), while accepting that the worker's injury was work related, and that medical evidence was supportive of the worker's inability to work after April 26, 1997, denied earnings replacement benefits because the worker had not established wage loss. The latter conclusion was based on a letter from the employer indicating that the employer had no work for the worker after April 26, 1997.

RESULT: Appeal allowed.

There was evidence from prior hearings that the employer had objected to the worker's claim on the basis that the worker suffered no injury while employed. There was also evidence which formed the basis of a finding of the Hearing Officer that contact between the employer and the worker concerning the worker's claim created "a chilling effect on the employment relationship such that the worker was not called into work further."

It is contrary to the **Workers' Compensation Act** for an employer, directly or indirectly, to discipline or discriminate against a worker who reports an accident or makes a claim.

Under these circumstances, in view of the finding of the Hearing Officer, the conclusion of the Tribunal - that the worker had not established a wage loss after April 26, 1997 - is patently unreasonable.

The Court of Appeal set aside the Tribunal's decision and remitted the matter back to the Tribunal to fix earnings replacement benefits.

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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 5 pages.