

CASE NO. **VOLUME** **PAGE**
Cite as: D'Orsay v. Nova Scotia Confederation of University Faculty Associations,
1997 NSCA 113

JOHN D'ORSAY Appellant
- and -

NOVA SCOTIA CONFEDERATION OF
UNIVERSITY FACULTY ASSOCIATIONS,
a Society incorporated under the *Societies Act* Respondent

C.A. No. 136047 Halifax, N.S. Clarke, C.J.N.S.
(orally)

APPEAL HEARD: May 30, 1997

JUDGMENT DELIVERED: May 30, 1997

WRITTEN RELEASE OF ORAL: June 3, 1997

SUBJECT: **CONTRACT - Employment - Interpretation**

SUMMARY: The appellant was the Executive Director of the respondent. He was employed pursuant to a series of fixed term contracts. As required by the contract, he was given one year's notice of the termination of his employment. During that time both parties were aware the respondent, an organization representing nine university faculty unions, was about to discontinue its operations which in fact it did. It ceased to exist.

The appellant contended he was entitled to receive a one year career development leave (sabbatical) or money in lieu. While the contract was extensive in its detail, it made no provision for such a circumstance.

The chambers judge dismissed the application concluding that to do otherwise would require the Court to imply a term in the contract which, based on the evidence, involved a subject the parties had not considered.

ISSUE: Did the chambers judge err in law by failing to interpret the contract in a manner to achieve the reasonable expectations of the parties.

RESULT: The Court of Appeal dismissed the appeal. It concluded only the parties would be capable of negotiating that for which the contract made no provision. It agreed with the chambers judge that it was inappropriate in the circumstances to imply a term in the contract. No costs were awarded.

The Court referred to Cheshire, Fifoot and Furmston's **Law of Contract**, eleventh edition, at p. 138, quoting Lord Pearson in **Trollope and Colls Ltd. v. North West Metropolitan Regional Hospital Board**, [1973] 2 All ER 260 at p. 268.

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.