

NOVA SCOTIA COURT OF APPEAL

Citation: *Garden View Restaurant Ltd. v. Portage La Prairie Mutual Insurance Company*, 2016 NSCA 8

Date: 20160211

Docket: CA 436877

Registry: Halifax

Between:

Garden View Restaurant Limited

Appellant

v.

The Portage La Prairie Mutual Insurance Company

Respondent

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: October 7, 2015, in Halifax, Nova Scotia

Subject: **Insurance Law. Interpretation of Insurance Policy.
Application of the Doctrine of Imminent Peril.**

Summary: The appellant, Garden View Restaurant Limited, is the owner of a 2-unit residential rental building. On January 27, 2011, it was discovered that the copper pipe connecting an outside oil tank to the building furnace had been vandalized, causing oil to discharge on the property. Garden View remediated the property and then sought to have its expenses paid by Portage La Prairie Mutual Insurance Company under a policy of insurance issued by it. The insurer denied payment for any claim relating to remediation of the soil. Garden View applied to the Supreme Court seeking a declaration that the costs associated with the remediation was covered under the policy. The application judge dismissed Garden View's application.

Issues: There were two broad issues on the appeal:
(1) Was there coverage to insured property so as to invoke coverage under the policy?
(2) Did the doctrine of imminent peril apply?

Result: Appeal dismissed. The application judge properly applied the interpretative principles relating to insurance contracts and finding that there was no damage to insured property. She did not err in finding that the doctrine of imminent peril did not apply.

<p><i>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 20 pages.</i></p>
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