

NOVA SCOTIA COURT OF APPEAL

Citation: *International Association of Fire Fighters, Local 268 v. Adekayode*,
2016 NSCA 6

Date: 20160210
Docket: CA 438510
Registry: Halifax

Between:

International Association of Fire Fighters, Local 268

Appellant

v.

Ray Adekayode, Nova Scotia Human Rights Commission, Nova Scotia Human
Rights Commission Board of Inquiry, Attorney General of Nova Scotia, and
Halifax Regional Municipality

Respondents

Judge: The Honourable Justice Joel E. Fichaud

Appeal Heard: November 17, 2015, in Halifax, Nova Scotia

Subject: *Human Rights Act* – discrimination – ameliorative program or
activity

Summary: Mr. Adekayode’s collective agreement topped up the federal
Employment Insurance benefits that are paid to adoptive
parents on leave, but not those of birth parents. Mr.
Adekayode, a birth parent, claimed that the collective
agreement discriminated against him based on “family status”,
contrary to s. 5(1)(r) of Nova Scotia’s *Human Rights Act*. A
Human Rights Board of Inquiry agreed, and ordered a remedy
against Mr. Adekayode’s union and employer who signed the
collective agreement. The union, Local 268, appealed. The
employer, Halifax Regional Municipality, supported the
union’s appeal.

Issues: Did the Board offend the appellate standard of review (1) by
ruling that collective agreement “discriminated” based on

family status contrary to s. 5(1)(r) of the *Human Rights Act*, or (2) by ruling that the top-up was not saved as a “program or activity that has as its object the amelioration of conditions of disadvantaged individuals or classes of individuals” – namely adoptive parents – within s. 6 (i) of the *Act*?

Result:

The Board correctly ruled that the collective agreement discriminated within the meaning of “discrimination” in s. 4 of the *Human Rights Act*. But the Board committed an appealable error, under either standard of review, by applying the wrong tests to determine whether the top up was excepted by s. 6(i) of the *Human Rights Act*. The Court of Appeal allowed the appeal in part, overturned the Board of Inquiry’s order, ruled that the top up was saved by s. 6(i), and dismissed Mr. Adekayode’s complaint under the *Human Rights Act*.

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 47 pages.