

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** B.H. v. Nova Scotia (Community Services), 2009 NSCA 67

**Date:** 20090617

**Docket:** CA 309398

**Registry:** Halifax

**Between:**

B.H.

Appellant

v.

Minister of Community Services and M.F.

Respondents

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**Restriction on Publication:** Pursuant to s. 94(1) Children and Family Services Act

**Judge:** The Honourable Justice Hamilton

**Appeal Heard:** June 10, 2009

**Subject:** Interpretation of s.48(6)(c)(ii) of **Children's and Family Services Act**, S.N.S. 1990, c.5

**Summary:** Judge M.L. Melvin of the Family Court interpreted s.48(6)(c)(ii) of the **Act** as preventing an application to terminate permanent care and custody being made without leave of the court until the expiry of six months after an order dismissing an application for leave to terminate such an order.

**Issue:** Did the judge err?

**Result:** Appeal dismissed. The judge correctly applied Driedger's modern principle of statutory interpretation in concluding that an application for leave to appeal to terminate a permanent care order is an integral part of an application to terminate a permanent care order for purposes of s.48(6)(c)(ii) of the **Act**. Accordingly, once a

leave application has been dismissed, the applicant, in an application to terminate, must adhere to the time limitation set out in s.48 of the 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 11 pages.**