

CASE NO.

VOL. NO.

PAGE

**Cite as: Nova Scotia (Labour Relations Board) v. Future Inns Canada Inc., 1999  
NSCA 94**

**LABOUR RELATIONS BOARD (NOVA SCOTIA),  
PETER DARBY, BRUCE ARCHIBALD, LEO MacKAY,  
SANDRA WHITEHEAD, PAULA WEDGE and  
DIRKJE JOHNSON**  
(Appellants)

- and -

**FUTURE INNS  
CANADA INC.**

(Respondent)

- and -

**N. S. FEDERATION OF LABOUR**  
(Intervenor)

C.A. No. **152113** and **152110**

Halifax, N.S.

**PUGSLEY, J.A.**

---

**APPEAL HEARD:**

June 1, 1999

**JUDGMENT DELIVERED:**

July 16, 1999

**SUBJECT:** **C.P.R. 14.25; Immunity of the Labour Relations Board, and its members, from actions based on their alleged malice and bad faith. Constitutionality of s. 5 of the *Public Inquiries Act*, R.S.N.S. 1989, c-372.**

**ISSUE:** The Chambers judge dismissed a motion to strike the respondent's statement of claim on the ground that questions of law are not matters to be brought before the court on an application under **C.P.R. 14.25**. The Chambers judge, in addition, accepted the respondent's submission that the extent of the immunity of administrative boards and their members is, as yet, unclear in Canada.

**RESULT:** Appeal allowed in part.

The court unanimously concluded that **C.P.R. 14.25** is an appropriate procedure for application to strike a statement of claim in cases where the law is clear, and no further extrinsic evidence is

required to resolve the issues raised.

Section 16(7) of the **Trade Union Act**, R.S.N.S. 1989 c-47, together with s. 5 of the **Public Inquiries Act**, conveys a specific statutory immunity on the Board, and its members, for acts performed in their capacity as a board, or as board members, even if performed with malice, or in bad faith. See **Morier v. Rivard**, [1985] 2 S.C.R. 716.

The appeal was allowed with respect to the action commenced against the Board, and the individual members, apart from the chairman, as the statement of claim relates only to actions taken by the Board, and those individual appellants, taken within their capacity as a board, or board members. Those members are protected by the Board and the immunity granted by statute.

With respect to the chairman, it is not plain and obvious that his statements in the circumstances of this case were covered by the statutory immunity. Although there are some "defects" in the statement of claim, a question "fit to be tried" against the chairman is presented in certain of the paragraphs.

Accordingly, the appeal was dismissed with respect to the allegations against the chairman.

The submission that s. 5 of the **Public Inquiries Act** is *ultra vires* the Nova Scotia Assembly under the **Constitution Act**, 1867, because it would have the effect of constituting members of the Board as s. 96 judges, was not accepted.

**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 31 pages.**