

NOVA SCOTIA COURT OF APPEAL

Citation: Whalley v. Royal Canadian Mounted Police Public Complaints
Commission, 2009 NSCA 122

Date: 20091202
Docket: CA 312984
Registry: Halifax

Between:

Richard Whalley

Appellant

v.

The Royal Canadian Mounted Police Public Complaints Commission

Respondent

Judge: The Honourable Justice Elizabeth A. Roscoe

Appeal Heard: November 24, 2009

Subject: Summary Judgment, amendment of pleadings

Summary: The appellant, a former RCMP officer, sued the RCMP Public Complaints Commission claiming negligence, abuse of process, interference with economic relations, misfeasance in public office, abuse of statutory power, malicious prosecution and infliction of economic and emotional damage and mental suffering. The lawsuit arose from the Commission's investigation of a complaint made against the appellant by a person he arrested following a break and enter in 1994. The Commission brought an application for summary judgment claiming that it was not a suable entity. The Chambers judge granted summary judgment.

Issue: Whether the Chambers judge erred in finding that the Commission was not liable to be sued for damages in tort and whether the appellant should have been given the opportunity to amend his pleadings to add the Crown as defendant.

Result: Appeal dismissed. The Commission was not liable to be sued

for damages in tort. Since the Crown had previously been released from the action by the appellant, it made no sense to allow him to amend the pleadings to add the Crown as defendant.

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 16 pages.