

CASE NO.**VOL. NO.****PAGE**

WORKERS' COMPENSATION
BOARD OF NOVA SCOTIA

- and -

DONALD MARTIN

(Appellant)
(Respondent by Cross-Appeal)

(Respondent)
(Appellant by Cross-Appeal)

- and -

WORKERS' COMPENSATION
APPEALS TRIBUNAL OF NOVA
SCOTIA

(Respondent)
(Respondent by Cross-Appeal)

AND:

WORKERS' COMPENSATION
BOARD OF NOVA SCOTIA

RUTH A. LASEUR

(Appellant)
(Respondent by Cross-Appeal)

(Respondent)
(Appellant by Cross-Appeal)

- and -

WORKERS COMPENSATION
APPEALS TRIBUNAL OF NOVA
SCOTIA

(Respondent)
(Respondent by Cross-Appeal)

CA 1621161
CA 162160 & 162130

Halifax, N.S.

CROMWELL, J.A.

Cite as: Nova Scotia (Workers' Compensation Board) v. Martin, 2000 NSCA 126

APPEALS HEARD:

June 13 and 14, 2000

JUDGMENT DELIVERED:

November 8th, 2000

SUBJECT:

**Workers' Compensation - Chronic Pain - Equality Rights under
the *Canadian Charter of Rights and Freedoms*
Administrative Tribunals - Jurisdiction to apply the *Charter***

SUMMARY:

Mr. Martin and Ms. Laseur are injured workers with chronic pain.
Both were denied certain benefits under the **Workers'**

Compensation Act, S.N.S. 1994 - 95, c. 10, as amended, by virtue of Regulations and provisions in the **Act** precluding benefits for disability resulting from chronic pain. In their appeals to WCAT from the denial of benefits, they challenged these provisions arguing that they contravene s. 15(1) of the *Charter*. WCAT decided that it had jurisdiction to entertain these arguments and, on the merits, found the provisions were unconstitutional because they violated s. 15. The Board appealed.

ISSUES:

1. Does WCAT have jurisdiction to refuse to apply provisions in its enabling statute which, in its opinion, violate the *Canadian Charter of Rights and Freedoms*?
2. Do the challenged provisions violate s. 15 of the *Charter*?

RESULT:

Appeals allowed and decisions of WCAT set aside.

WCAT does not have jurisdiction to refuse to apply provisions in its enabling statute which confer or limit benefits on the basis of its opinion that they violate the *Charter*. In any case, the challenged provisions do not limit the respondents' rights under s. 15 of the *Charter* because a reasonable person in circumstances similar to that of the respondents and taking account of the various relevant considerations would not think that these provisions demean the respondents' human dignity.

<p>This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 118 pages.</p>
--