

CASE NO.**VOL. NO.****PAGE**BLAIKIES DODGE CHRYSLER
LIMITED

- and -

ANTHONY AARON CROWE

(Appellant)

(Respondent)

CA 163547

Halifax, N.S.

CROMWELL, J.A.
(Orally)

Cite as: Blaikies Dodge Chrysler Ltd. v. Crowe, 2000 NSCA 133**APPEAL HEARD:**

November 20, 2000

JUDGMENT DELIVERED:

November 20, 2000

WRITTEN RELEASE OF ORAL:

November 22, 2000

SUBJECT:**Employment Law - Unjust Dismissal - Layoff****SUMMARY:**

The respondent was employed by the appellant as an auto body technician for 16 years. The appellant purported to layoff the respondent indefinitely. The trial judge found that the so-called layoff was for an indefinite period and that there was no implied term of the employment contract contemplating or permitting such layoffs. The trial judge concluded that the respondent had been dismissed and awarded 12 months' pay in lieu of notice.

ISSUES:

1. Did the trial judge err in finding that the respondent had been dismissed?
2. Did the trial judge err in finding that the respondent had not failed to mitigate his damages?
3. Was the award of 12 months' pay excessive?

RESULT:

Appeal dismissed. The trial judge did not err in all of the circumstances of this case in finding that the purported layoff was in fact and in law a dismissal. As regards the question of mitigation, the trial judge made findings of fact which are supported by the evidence and applied the correct legal principles. As for the damages, while the award was at the high end of an acceptable range, it was not so inordinately high so as to require appellate intervention.

<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 5 pages.</p>
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