

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Ristow v. National Bank Financial Ltd.*, 2010 NSCA 79

**Date:** 20101014

**Docket:** CA 323308

**Registry:** Halifax

**Between:**

Lutz Ristow

Appellant

v.

National Bank Financial Limited, Blois Colpitts, Dan Potter  
and Stewart McKelvey Stirling Scales

Respondents

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**Judge:** The Honourable Mr. Justice Jamie W.S. Saunders

**Appeal Heard:** October 5, 2010

**Subject:** **Test for Summary Judgment. Civil Procedure Rule 13.04 (2009). Costs Payable Forthwith.**

**Summary:** An appeal from the decision of Hood, J. in Chambers where she dismissed the appellant's motion for summary judgment brought pursuant to (new) **Civil Procedure Rule 13.04 (2009)** and directed that costs be payable to the respondents, forthwith.

**Held:** Appeal dismissed. While the words contained in **CPR 13.04** are different and more explicit, the test for summary judgment remains the same such that the leading jurisprudence on the subject, of longstanding authority in this Province, still applies.

This case is laden with critical factual disputes, key credibility issues, and significant, unsettled questions of law which will require a full trial on the merits to resolve. It is obviously ill-suited for summary judgment.

Hood, J. exercised her discretion judicially in ordering that costs be payable forthwith.

**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 4 pages.**