

CASE NO.

VOL. NO.

PAGE

Armand Gilles Lanteigne

- and -

Workers' Compensation Appeal Tribunal of Nova Scotia (WCAT), Workers' Compensation Board of Nova Scotia (WCB), A.W. Leil Cranes & Equipment, (1986) Limited, a body corporate, J.W. Cowie Engineering Limited, a body corporate, James W. Cowie and Kenneth Keith Kennedy

(Appellant)

(Respondents)

CA 178892

Halifax, N.S.

Oland, J.A.

Citation: *Lanteigne v. Nova Scotia (Workers' Compensation Appeal Tribunal)*, 2002 NSCA 156

APPEAL HEARD:

October 11, 2002

JUDGMENT DELIVERED:

December 10, 2002

SUBJECT: **Workers' Compensation Act s. 28(2)**

SUMMARY: The appellant and another person, Humphrey, were injured in an accident involving a truck crane at a construction site. They had been inside a bucket at the end of an extended boom attached to a truck crane which was stationary and which had its outriggers extended and set. When the boom was moved, the truck crane toppled to the ground, the bucket fell, and the appellant and Humphrey suffered personal injuries. They commenced civil actions against the owner of the truck crane and its employee, the operator of the boom.

The Workers' Compensation Appeal Tribunal barred those civil

actions. It held that since, at the time of the accident the truck crane was stationary with its wheels lifted in the air, it was not then a “motor vehicle” and the falling of the crane could not give rise to an injury resulting from the “use or operation of a motor vehicle” within the exception in s. 28(2) to the statutory bar in the *Workers’ Compensation Act*.

ISSUE: Whether the decision of the Workers’ Compensation Appeal Tribunal is patently unreasonable.

RESULT: Appeal dismissed. The Workers’ Compensation Appeal Tribunal considered jurisprudence presented by the appellant, Humphrey and the respondents, decided that the matter turned on the truck crane’s status as a multiple purpose piece of machinery, and selected a particular decision as the governing authority. Its determination that the accident did not come within the statutory exception in s. 28(2) was not patently unreasonable.

Where the evidence established that the owner of the truck crane had insurance coverage for the accident, it was not necessary to decide whether the Workers’ Compensation Appeal Tribunal had to first determine whether motor insurance coverage exists before it proceeds to consider the interpretation of s. 28(2).

The argument that WCAT erred in jurisdiction by hearing evidence pertaining to the underwriting of risks and insurance coverage on the truck crane fails, as the portion of its decision upon which that argument relies is *obiter*.

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 14 pages.