

NOVA SCOTIA COURT OF APPEAL

Citation: CGU Insurance Company v. Noble,
2003 NSCA 102

Date: 20031002

Docket: CA 193918

Registry: Halifax

Between:

CGU Insurance Company of Canada, a body corporate

Appellant

v.

Keyan Noble

Respondent

and -

Christopher Goudey, Paula Goudey, Cathy Marie Malone,
Colby Todd Brannen, Red Knight Enterprises (1987) Limited,
and Matthew Douglas Malone

Respondents

JUDGE: BATEMAN, J.A.

APPEAL HEARD: September 22, 2003

JUDGMENT DELIVERED: October 2nd, 2003

SUBJECT: Striking Statement of Claim - Civil Procedure Rule 14.25(1)(a).

SUMMARY: Appellant applied to strike a portion of a Third Party Statement of Claim as disclosing no reasonable cause of action. Chambers judge dismissed application, which dismissal was appealed.

ISSUE: What is the test for dismissing a cause of action pursuant to **Rule 14.25(1)(a)**?

RESULT: Appeal dismissed. The decisions of this Court in **Future Inns Canada Inc. v. Nova Scotia (Labour Relations Board)** (1999), 179 N.S.R. (2d) 213; N.S.J. No. 258 (Q.L.) (C.A.); **Lamey v. Wentworth Valley Developments Ltd.** (1999). 175 N.S.R. (2d) 356; N.S.J. No. 122 (Q.L.)(C.A.) are not in conflict. A question of law may be determined on an application pursuant to **Civil Procedure Rule 14.25** but such should occur only where the law is so clear that it is plain and obvious. As noted by Freeman, J.A. in **American Home Assurance Co. et al. v. Brett Pontiac Buick GMC Ltd. et al.** (1993), 116 N.S.R. (2d) 319 at ¶ 8, deciding a claim without trial is a serious matter which should occur only if the claim, on its face, is absolutely unsustainable.

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 6 pages.