

NOVA SCOTIA COURT OF APPEAL

Citation: *Canadian Union of Public Employees, Local 2434
v. Port Hawkesbury (Town)*, 2011 NSCA 28

Date: 20110318

Docket: CA 335584

Registry: Halifax

Between:

Canadian Union of Public Employees, Local 2434
on behalf of Stephen Reynolds

Appellant

v.

Town of Port Hawkesbury

Respondent

and

Mr. Jim LeBlanc, Occupational Health and Safety Division,
Department of Labour and Workforce Development

Respondent

and

Occupational Health and Safety Appeal Panel of Nova Scotia

Respondent

and

Attorney General of Nova Scotia

Respondent

Judge: The Honourable Justice Joel Fichaud

Appeal Heard: February 1, 2011

Subject: **Occupational Health and Safety - Judicial Review**

Summary: The Occupational Health and Safety Panel terminated an OHS Officer's investigation because a labour arbitrator had "seized jurisdiction" under s. 46(1)(d)(ii) of the *Occupational Health and Safety Act*, S.N.S. 1996, c. 7 (*OHS Act*). The arbitrator had ruled that the grievance was not arbitrable. The Union applied to the Court of Appeal for review.

Issues: Did the panel commit a reviewable error?

Result: The matter was jurisdictional and subject to review for correctness. The arbitrator's ruling that the matter was inarbitrable was not a seizure of jurisdiction under s. 46(1)(d)(ii) of the *OHS Act*. The Court of Appeal set aside the Panel's decision and reinstated the OHS Officer's decision to proceed with the OHS investigation.

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 27 pages.