

NOVA SCOTIA COURT OF APPEAL

Citation: *Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*, 2012 NSCA 11

Date: 20120125

Docket: CA 352666

Registry: Halifax

Between:

Halifax Regional Municipality

Appellant

v.

The Nova Scotia Human Rights Commission,
Michael Craig, Tammy Robertson,
Donald C. Murray, Q.C., in his capacity as a
Human Rights Board of Inquiry, and the
Attorney General of Nova Scotia

Respondents

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

Appeal Heard: January 24, 2012

Subject: **Human Rights. Board of Inquiry. Jurisdiction. Mootness. Discretion. *Functus Officio.***

Summary: A Board of Inquiry was appointed to consider complaints of alleged discrimination where the needs of persons in wheelchairs were not accommodated by suitably equipped and accessible buses and bus routes. Through the sustained and laudable efforts of HRM, Metro Transit, the complainants, and the Nova Scotia Human Rights Commission a settlement was reached. The Chair of the Board of Inquiry incorporated the terms of the consent settlement order into his June 30, 2011,

interim decision, but purported to reserve to himself jurisdiction over continuing compliance and remedies. HRM appealed saying the Board had exceeded its jurisdiction by extending its oversight beyond the time and the subject-matter authorized by its appointment. HRM interpreted the June 30 interim decision as enabling the Board to hear new complaints and provide new remedies beyond those reflected in the settlement.

Held:

Appeal dismissed. On November 28, 2011, the parties notified the Chair that all of the provisions of the interim (June) order had been successfully implemented by HRM. The Board then issued its final decision on November 29 concluding the inquiry. With it, the Chair became *functus officio*, rendering this case moot. There was no reason in this case for this Court to exercise its jurisdiction and hear the appeal, in any event. **Borowski v. Canada (Attorney General)**, [1989] 1 S.C.R. 342. Whether the Board overstepped its authority need not be addressed. However, this Court's disinclination to consider such issues ought not to preclude their being argued in an appropriate appeal where the inquiry had not concluded its mandate.

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 5 pages.