

NOVA SCOTIA COURT OF APPEAL

Citation: *Sackville Trenching Ltd. v. Nova Scotia
(Occupational Health and Safety Appeal Panel)*, 2012 NSCA 39

Date: 20120416

Docket: CA 345260

Registry: Halifax

Between:

Sackville Trenching Limited

Appellant

v.

Occupational Health and Safety Appeal Panel of
Nova Scotia, Jim LeBlanc as Director of Occupational
Health and Safety and The Attorney General of Nova Scotia

Respondents

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: January 24, 2012

Subject: **Occupational Health and Safety. Administrative Penalties.
Duty of Fairness.**

Summary: Sackville Trenching was issued an Administrative Penalty for an alleged violation of the **Occupational Health and Safety Act**, S.N.S. 1996, c. 7 in the construction of a trench. Sackville Trenching appealed the Administrative Penalty to an Occupational Health and Safety Appeal Panel. The Panel upheld the Administrative Penalty but reduced it from \$1,000 to \$800. Sackville Trenching appealed that decision to this Court.

Following the filing of its Notice of Appeal, it was discovered that the Appeal Panel had documents in its possession relevant to the appeal which had not been disclosed to Sackville

Trenching. The Notice of Appeal was amended alleging that the Panel had breached its duty of procedural fairness to Sackville Trenching by failing to disclose the documentation in its possession.

Issues: Did the Appeal Panel breach its duty of procedural fairness to Sackville Trenching?

Result: Appeal allowed. The documents in the possession of the Appeal Panel ought to have been disclosed to Sackville Trenching. Failure to do so was a breach of its duty of procedural fairness. The matter was remitted to a reconstituted appeal panel for rehearing. No costs were awarded to either party.

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 7 pages.