

NOVA SCOTIA COURT OF APPEAL

Citation: *Holland Carriers Ltd. v. MacDonald*, 2012 NSCA 47

Date: 20120508

Docket: CA 360839

Registry: Halifax

Between:

Holland Carriers Ltd. and Raymond Edward Murray

Appellants

v.

Frank MacDonald, Troy McCarthy, Jeffrey McPhee,
ING Insurance Company of Canada, First Communication Contractors Limited,
Nova Enterprises Limited and Valley Trailers

Respondents

JUDGE: MacDonald, C.J.N.S.

APPEAL HEARD: April 12, 2012

SUBJECT: Torts; negligence; standard of care; causation.

SUMMARY: A logging truck hauling an empty trailer was travelling along highway 103 when one of the trailer's vertical metal posts, designed to contain a load, came out of its mooring and flew into the windshield of an oncoming van. This caused serious injuries to the passengers in the van.

Justice Arthur W.D. Pickup of the Supreme Court found the truck's owner and operator liable in negligence. Essentially, he found that the appellants' inspection regime was lacking. The owner and operator now appeal to this court.

ISSUES:

The appellants assert that the judge erred:

- (a) by finding the standard of care without evidence of an industry standard and, or
- (b) even had the appellants breached the standard of care, by finding that this breach would have caused the accident.

RESULT:

Appeal dismissed. The judge did not need evidence of an industry standard to establish the standard of care. In this case, it was enough for the judge to apply his common knowledge and experience to the facts as he found them. Nor was it unreasonable to conclude that the appellants' failure to properly inspect the stake in question led to the accident.

<p>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 15 pages.</p>
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