

**NOVA SCOTIA COURT OF APPEAL**  
**Citation: *Cragg v. Eisener*, 2012 NSCA 101**

**Date:** 20120927  
**Docket:** CA 377951  
**Registry:** Halifax

**Between:**

Edward Gillmor Cragg

Appellant

v.

Randy Eisener

Respondent

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

**Appeal Heard:** September 21, 2012

**Subject:** **Test for Summary Judgment. Civil Procedure Rule 13. Foreclosure. Evidence. Pleadings. Adjournments. Judicial Discretion.**

**Summary:** A mortgage lender was granted summary judgment and foreclosure after the mortgage went into substantial default. The borrower appealed claiming error on the part of the Chambers judge in applying the test for summary judgment and in refusing to grant an adjournment so as to permit the borrower to file a late affidavit and to cross-examine the lender on his affidavit.

**Held:**

Appeal dismissed. The judge understood the law and applied it properly. Based on this record it was open to the judge to enter summary judgment on both the evidence, and the pleadings. Trial judges have a broad authority to supervise and control proceedings which includes the discretion to grant or refuse adjournments. Given the history of this dispute the judge obviously felt that to delay the matter yet again would not do justice between the parties. In refusing this adjournment the judge neither erred in principle, nor failed to exercise her discretion judicially.

**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.**