

NOVA SCOTIA COURT OF APPEAL

Citation: *Tupper v. Nova Scotia Barristers' Society*, 2013 NSCA 14

Date: Decision Date 20130131

Docket: CA 388982

Registry: Halifax

Between:

Thomas Percy Tupper

Appellant

v.

Nova Scotia Barristers' Society (Tribunal)
and the Attorney General of Nova Scotia

Respondents

Judges: MacDonald, C.J.N.S.; Hamilton and Beveridge, JJ.A.

Appeal Heard: January 23, 2013, in Halifax, Nova Scotia

Held: Motion by the Nova Scotia Barristers' Society to dismiss Mr. Tupper's appeal is granted and Mr. Tupper's appeal is dismissed, without costs to any party, per reasons for judgment of Hamilton, J.A.; MacDonald, C.J.N.S. and Beveridge, J.A. concurring.

Counsel: Appellant, in person
Raymond F. Larkin, Q.C. and Elaine Cumming, for the respondent, Nova Scotia Barristers' Society
Duane Eddy, for the respondent, the Attorney General of Nova Scotia

Reasons for judgment:

[1] Victoria Rees, the Director of Professional Responsibility for the Nova Scotia Barristers' Society ("Society"), acting as a delegate of the Executive Director of the Society, dismissed Mr. Tupper's complaint against seven lawyers. Acting pursuant to Regulation 9.3.2. of the **Legal Profession Act**, S.N.S. 2004, c. 28, a Review Subcommittee of the Society confirmed this dismissal on February 21, 2012. The appellant, Thomas Percy Tupper, seeks to appeal the decision of the Review Subcommittee to this Court.

[2] The Society moved to dismiss Mr. Tupper's appeal on the basis this Court has no jurisdiction to hear an appeal from a decision of the Review Subcommittee. In response, Mr. Tupper, in essence, admitted that this Court has no jurisdiction pursuant to the **Act** or Regulations. However, he then filed a Notice of Constitutional Issue. In his Notice he alleges that the **Act** and Regulations, governing how complaints against lawyers in Nova Scotia are handled, breach s. 15 of the **Canadian Charter of Rights and Freedoms**, Part 1 of the **Constitution Act**, 1982, being schedule B to the **Canada Act** 1982 (UK), 1982, c. 11, because they treat lawyers and non lawyers differently.

[3] Mr. Tupper is correct to concede that he has no right of appeal to this Court. Section 49(2) of the **Act** provides for a right to appeal to this Court on a question of law when a practicing lawyer receives a disciplinary sanction or where an interim suspension or restriction in practice is imposed during the process of investigating a complaint. It gives no right of appeal to a complainant whose complaint is dismissed.

[4] Assuming, without deciding, that we should consider the constitutional issue raised by Mr. Tupper, we are satisfied it has no substance. The difference in treatment between lawyers who are sanctioned or whose practice is restricted and complainants whose complaints are dismissed is not based on any of the enumerated grounds in Section 15 of the **Charter** or any analogous ground and results in no actual disadvantage to a complainant.

[5] This Court has no jurisdiction to hear an appeal from a decision of the Review Subcommittee. Accordingly, we grant the Society's motion to dismiss Mr. Tupper's appeal and Mr. Tupper's appeal is dismissed, without costs to any party.

Hamilton, J.A.

Concurred in:

MacDonald, C.J.N.S.

Beveridge, J.A.