

CASE NO. **VOLUME** **PAGE**
**Cite as: Nova Scotia Government Employees Union v. Q.E. II Health Sciences
Centre, 1998 NSCA 87**

NOVA SCOTIA GOVERNMENT
EMPLOYEES UNION - and - Q.E. II HEALTH SCIENCES
CENTRE

(Appellant) (Respondent)

C.A. No. 144277 Halifax, N.S. FREEMAN, J.A.

APPEAL HEARD: February 19, 1998

JUDGMENT DELIVERED: April 8, 1998

SUBJECT: **Labour Law; Arbitration; Judicial Review; Appeal; Statutory
Interpretation.**

SUMMARY: In 1994 the Province of Nova Scotia passed the **Public Sector Compensation (1994-1997) Act** S.N.S. 1994 c. 11, which froze labour relations between public sector employers and employees until October 31, 1997, rolled back wages by three per cent, and extended collective agreements to November 1, 1997. Questions arising as to the effect of the Act were to be answered by an Administrator or a Restraint Board created by the Act with power to make compliance orders enforceable under the Summary Proceedings Act. The Act removed the rollback from wages of non-unionized employees as of October 31, 1997. The provision rolling back rates of pay under collective agreements did not provide for a specific termination date, but collective bargaining rights were restored as of October 31, 1997. The respondent, which employs hospital workers in the Halifax area, considered that the reduced wages continued in effect until they were altered by collective bargaining. The appellant Union brought a grievance under the **Trade Union Act** and an arbitrator was appointed by the Minister. The employer referred the question to the Restraint Board on the eve of the arbitration hearing and the Board awaited the outcome of arbitration. The arbitrator held that the **Act** did not reduce wages after October 31, 1997, nor amend collective agreements with ongoing effect. On review, the Supreme Court of Nova Scotia reversed the award, finding that the rollback provision continued in effect because the relevant section did not include a termination date, and that collective agreements had been amended. The Union appealed.

ISSUES: Did the arbitrator have jurisdiction to consider the matter; did the three per cent wage rollback continue in effect for unionized public sector employees after October 31, 1997?

RESULT: The appeal was allowed with costs of \$2,000. The arbitrator had jurisdiction to consider the effect of the statute under the **Trade Union Act**. Considering the **Act** as a whole, the rollback of wages under collective agreements was terminated by necessary implication on October 31, 1997. Per Jones J.A, dissenting, the Board had exclusive jurisdiction to deal with the issue. The arbitrator had no jurisdiction and his award was null and void.

This information sheet does not form part of the Court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 53 pages.