

CASE NO.

VOLUME

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Cite as: Family & Children's Services of Kings County v. H.W.T., 1996 NSCA 247

FAMILY & CHILDREN'S SERVICES OF
KINGS COUNTY

H.W.T.

- and -

(Appellant)

(Respondent)

C.A. No. 132327

Halifax, N.S.

FREEMAN, J.A.
(orally)

APPEAL HEARD:

December 12, 1996

JUDGMENT DELIVERED:

December 12, 1996

SUBJECT:

Children and Family Services Act, S.N.S. 1990, c. 5, ss. 2(2), 41(1), 42(1); **Family Court Act**, R.S.N.S. 1989, c. 159 s. 8; time limits, best interests of child.

SUMMARY:

Appeal from decision of Family Court judge adjourning disposition hearing to date more than 90 days after date of protection hearing, beyond 90 day statutory time limit imposed by s. 41 of **Children and Family Services Act**. Matter could have been heard within the 90 days by another judge if judge had recused himself?

ISSUE:

Was disposition hearing after expiry of time limit specified by s. 41(1) of **Children and Family Services Act** beyond the jurisdiction of the Family Court judge and therefore a nullity? Should judge have recused himself?

RESULT:

Appeal dismissed without costs. It was necessary to hold the disposition hearing beyond the 90 day time period specified by s. 41 of the **Children and Family Services Act** in the best interest of the

children, so jurisdiction was not lost. (See **H.W. v. The Children's Aid Society and Family Services of Colchester County, D.L. and B.S.** C.A. No. 130325 unreported. Recusal was a discretionary matter and the judge did not err nor lose jurisdiction by refusing it.

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 3 pages.