

NOVA SCOTIA COURT OF APPEAL

Citation: *Abridean International Inc. v. Nova Scotia (Labour Standards)*
2017 NSCA 65

Date: 20170712
Docket: CA 456387
Registry: Halifax

Between:

Abridean International Inc. and/or
Sagecrowd Inc. and/or Ogden Pond
Technology Group

Appellants

v.

Peter Bidgood, Director of Labour
Standards, Nova Scotia Labour Board
(Susan Ashley, Q.C., Vice Chair,
Marinus Van de Sande, and Larry Wark), and
Attorney General of Nova Scotia

Respondents

Judge: The Honourable Justice Jamie W.S. Saunders

Appeal Heard: May 9, 2017, in Halifax, Nova Scotia

Subject: *Labour Standards Code*, R.S.N.S. 1989, c. 246. Termination Without Cause. “Related Business”. Remedies. Awarding “Common Law” Damages as Compensation in lieu of Reinstatement. Statutory Authority. Standard of Review.

Summary: An IT specialist with more than 14 years of service with a series of associated companies was terminated and offered eight weeks’ working notice of termination. He complained to the Nova Scotia Labour Board saying the employer had violated s. 71 of the *Code* based on his accumulated years of service. The employer defended the claim initially taking the position that it had just cause to fire the complainant, and in

any event, only the employee's service with one of the companies in the group should be taken into account, since the business entities were distinct. The Director rejected the employer's arguments and awarded the complainant damages totaling \$104,000, which was subsequently upheld by the Board.

The employer appealed to this Court saying the Board erred by: failing to consider the employee's reinstatement as an appropriate remedy; awarding "common law" damages; and finding that the employment contract between the parties was not binding because it violated the minimum standards in the *Code*.

Held:

Appeal dismissed. The group of companies that had employed the complainant were not "separate" but were "associated or related" business entities as defined in s. 11 of the *Code*. Approached as an organic whole, the Board's analysis and conclusions were reasonable. On a fair reading of the decision, the Board *did* deal with the issue of reinstatement. On this record, it was perfectly reasonable for the Board to conclude that reinstatement was not a viable option. In making that finding, the Board did not delegate, or abrogate, the inquiry to others. The Board's interpretation and application of its broad remedial powers to provide fair compensation in lieu of reinstatement, find full support in the leading jurisprudence. The Board's approach in fixing compensatory damages was reasonable. Finally, the Board was reasonable in concluding that the contract of employment negotiated by the parties did not apply because its terms were less favourable than those available under the *Code* and therefore constituted a violation of s. 6.

<p><i>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 22 pages.</i></p>
