

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Nova Scotia (Human Rights Commission) v. Charlton*, 2017 NSCA 55

**Date:** 20170620

**Docket:** CA 456573

**Registry:** Halifax

**Between:**

The Nova Scotia Human Rights Commission

Appellant

v.

Dewayne Charlton, Holmestead Cheese Sales Inc., Kathryn A. Raymond, in her capacity as Nova Scotia Human Rights Board of Inquiry Chair, and the Attorney General of Nova Scotia representing Her Majesty the Queen in right of the Province of Nova Scotia

Respondents

**Judge:** The Honourable Justice Joel Fichaud

**Appeal Heard:** June 1, 2017, in Halifax, Nova Scotia

**Subject:** Settlement of complaint under *Human Rights Act*, R.S.N.S. 1989, c. 214

**Summary:** Mr. Charlton filed a complaint under the *Human Rights Act* against his employer. The employer denied discrimination. The Human Rights Commission appointed a Board of Inquiry. Section 34(5) of the *Act* says that, upon settlement, the Board “shall report the terms of settlement in its decision with any comments the board deems appropriate”. The parties settled the dispute, for an apology and compensation but without an admission of discrimination, and submitted the settlement agreement to the Board under s. 34(5). The Board declined to report the settlement for several reasons, mainly because the terms of settlement did not require the employer adopt a sufficiently detailed program to define and prevent discrimination and promote affirmative action. The Human

Rights Commission appealed.

**Issues:** Did the Board commit an appealable error by applying a merits-based adjudication to the Board's reporting function under s. 34(5) of the *Act*?

**Result:** The Court of Appeal allowed the appeal and directed that the settlement agreement be reported under s. 34(5). The Board's reporting function under s. 34(5) did not authorize the Board of Inquiry to disapprove the merits or substance of the parties' terms of settlement. The Court listed the standards to be considered by a Board of Inquiry under s. 34(5). The settlement agreement complied with those standards. The Board's refusal to report the settlement agreement derived from the Board's unreasonable interpretation of its authority under s. 34(5).

*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 18 pages.*