

NOVA SCOTIA COURT OF APPEAL

Citation: *Baker v. Nova Scotia (Workers' Compensation Appeals Tribunal)*,
2017 NSCA 83

Date: 20171128

Docket: CA 453768

Registry: Halifax

Between:

Jeffrey Baker

Appellant

v.

Nova Scotia Workers' Compensation Appeals Tribunal, Workers' Compensation
Board of Nova Scotia, Attorney General for the Province of Nova Scotia, and
Nova Scotia Department of Justice – Correctional Services

Respondents

Office of the Employer Advisor Nova Scotia Society

Intervenor

Judge: The Honourable Justice Joel E. Fichaud

Appeal Heard: October 10, 2017, in Halifax, Nova Scotia

Subject: Workers' compensation – disclosure of file material –
procedural fairness

Summary: Mr. Baker filed a claim under the *Workers' Compensation Act*, S.N.S. 1994-95, c. 10, for psychological stress caused by his employment. His employer disputed that any stress was caused by his employment. The Board's Claims Manager and Hearing Officer upheld the claim. The Employer appealed to the Workers' Compensation Appeals Tribunal. Before proceeding with the merits of the appeal, the Employer applied for fuller disclosure of the documents possessed by

the Board respecting Mr. Baker.

The Tribunal issued a Preliminary Decision that directed the disclosure to the Employer of the Board's complete file on Mr. Baker, whether or not its contents were relevant to the appeal. The Tribunal said that a "relevance"-based test for disclosure was unworkable in practice, and concluded that the principles of procedural fairness required that the Employer see the entire file without any vetting for relevance.

Mr. Baker appealed to the Court of Appeal.

Issues: Did the Tribunal's departure from the relevance standard for disclosure unreasonably interpret the Tribunal's procedural authority under the *Workers' Compensation Act* and the principles of procedural fairness?

Result: The Court of Appeal allowed the appeal. There is no principle of procedural fairness that a litigant is entitled to see every document it requests, regardless of relevance and without a relevance ruling by an impartial arbiter. The Tribunal unreasonably interpreted its procedural discretion under s. 240(1) of the *Workers' Compensation Act* and the principles of procedural fairness. The Court remitted the issue of disclosure to the Tribunal to determine disclosure based on the relevance of the documents.

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.