

NOVA SCOTIA COURT OF APPEAL

Citation: *Hogg v. College of Paramedics of Nova Scotia (Registration Appeal Committee)*, 2023 NSCA 62

Date: 20230905

Docket: CA 525057

Registry: Halifax

Sybil Hogg

Appellant

v.

Registration Appeal Committee Hearing Panel, College of Paramedics of Nova Scotia, Attorney General of Nova Scotia

Respondents

Corrected Decision: The text of the original decision has been corrected according to the attached erratum dated February 6, 2024.

Judge: Anne S. Derrick, J.A.

Motion Heard: August 31, 2023, in Halifax, Nova Scotia in Chambers

Written Decision: September 5, 2023

Held: Motion granted without costs.

Counsel: Sybil Hogg, self represented appellant
Ryan Baxter, for the respondent, College of Paramedics
Loretta Manning, KC, for the respondent, Registration Appeal Committee (not participating)
Edward A. Gores, KC, for the respondent, Attorney General of Nova Scotia (not participating)

Decision:**Introduction**

[1] On May 25, 2023, the Registration Appeal Committee (“Committee”) of the College of Paramedics of Nova Scotia (“College”) rendered its decision on whether evidence would be permitted in an appeal by Ms. Hogg from a denial by the College’s Registration Committee of her registration and licensure as a paramedic. It was Ms. Hogg’s position the appeal hearing before the Committee was a review of the Registration Committee’s decision denying her registration. The College says the appeal hearing should proceed *de novo* allowing the submission of fresh evidence. The Committee decided the appeal hearing would be *de novo* with the parties able to call evidence in addition to the record from the Registration Committee.

[2] Ms. Hogg has appealed that decision to this Court pursuant to s. 91(1) of the *Paramedics Act* (“Act”). The College says this Court has no jurisdiction to hear the appeal.

[3] The College brought a motion under *Civil Procedure Rule* 90.40(3) for a dismissal of Ms. Hogg’s appeal on the basis there is no appeal route to this Court from the Committee’s decision. The College also seeks leave to amend its Notice of Participation in a Tribunal Appeal filed on July 4, 2023.

[4] I am satisfied the College’s motion to dismiss Ms. Hogg’s appeal should be granted. As these reasons explain, Ms. Hogg does not have a right to appeal to this Court. Contrary to what Ms. Hogg believes, s. 91(1) of the *Paramedics Act* does not grant her a right of appeal from the Committee’s decision.

[5] The College’s motion to amend its Notice of Participation is granted. No evidence has been presented that by seeking to amend the College is acting in bad faith or that the amendment will cause prejudice to Ms. Hogg (*Nova Scotia (Department of Community Services) v. Hopkins*, 2011 NSSC 382).

The Jurisdiction of the Nova Scotia Court of Appeal

[6] *Civil Procedure Rule* 90.40(3) permits the dismissal of an appeal “if it is demonstrated that no appeal lies to the Court of Appeal”.

[7] No appeal lies to this Court if there is no jurisdiction to hear the appeal. For this Court to hear an appeal, it must have jurisdiction to do so.

[8] As the College points out, an appeal “is strictly a creature of statute” (*Liu v. Composites Atlantic Ltd.*, 2013 NSCA 142, at para. 8). As stated plainly by the Supreme Court of Canada: “...there is no right of appeal on any matter unless provided for by the relevant legislature” (*Kourteissis v. Minister of National Revenue*, [1993] 2 SCR 53, at para. 14).

[9] The right to appeal from a tribunal decision has to be found in the governing legislation for the tribunal. Where there is no right of appeal to this Court provided for in the applicable statute, there is no right of appeal to this Court.

[10] The applicable statute here is the *Paramedics Act*. The right to appeal a decision of the Committee to this Court must be found in the *Act* and its Regulations. If s. 91(1) of the *Act* on which Ms. Hogg relies does not grant her the right to appeal, her appeal to this Court cannot proceed. Ms. Hogg does not suggest her right of appeal is found anywhere other than s. 91(1).

[11] Ms. Hogg acknowledges that this Court’s jurisdiction to hear her appeal must be found in the *Paramedics Act* or its Regulations. She says s. 91(1) of the *Act* does not have the narrow application the College has urged me to accept, that provision only applies to a right of appeal to this Court from a hearing panel constituted for the professional conduct process.

[12] To address the issue – what application does s. 91(1) have and does it refer to any panel in the College’s processes that conducts a hearing – I must examine the *Act* and Regulations according to the rules of modern statutory interpretation.

The *Paramedics Act*

[13] Section 91(1) provides that “A respondent may appeal on any point of law from the finding of a hearing panel to the Nova Scotia Court of Appeal”. Ms. Hogg says the appeal she has filed in this Court is an appeal from the finding of a hearing panel of the College.

[14] It is not. The term “hearing panel” in s. 91(1) has a specific meaning and application in the *Act*. It is defined in s. 2(1)(m): “hearing panel” means a hearing panel appointed pursuant to s. 64(1)”.

[15] Section 64(1) of the *Act* and s. 91(1) are provisions of the College’s professional conduct process. The College explains its professional conduct process in its written brief for this motion:

18. The *Paramedics Act* and *Paramedics Regulations* outline the stages of the professional conduct process from the receipt of a complaint to the holding of a hearing. The professional conduct process is outlined under sections

37 to 91 of the *Paramedics Act* and Part 4 of the *Paramedics Regulations*, starting at section 54 and ending at section 89.

19. The purpose of the professional conduct process is to inhibit professional misconduct, conduct unbecoming the profession or incompetence by a member or to inhibit a member from practising while incapacitated. Pursuant to section 2(1)(w) of the *Paramedics Act*, a “member”, unless the context otherwise requires, means a person whose name is entered in the Register.

20. The initial step in the professional conduct process is the investigatory stage that addresses complaints received by the College. The term “complaint” is defined at section 2(1)(e) of the *Paramedics Act* and means a notice in writing indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a paramedic.

21. A complaint proceeds in accordance with the process set out in the *Paramedics Regulations*. Following a preliminary investigation, the Registrar of the College may refer a complaint to an Investigation Committee of the College pursuant to subsection 57(1)(d) of the *Paramedics Regulations*.

22. The Investigation Committee is a statutory committee appointed by the Council of the College. The Investigation Committee is responsible, in part, for investigating complaints referred to it. Where it considers it appropriate, the Investigation Committee may refer the complaint to a hearing. [*cites omitted*]

[16] The professional conduct process established under the *Paramedics Act* does not apply to Ms. Hogg as she is not registered by the College. Indeed, her appeal before the Committee is in relation to a decision not to grant her registration and licensure. Ms. Hogg does not suggest otherwise. She acknowledges she is not seeking to appeal a professional conduct decision.

[17] The “hearing panel” referenced in s. 91(1) of the *Paramedics Act* is the hearing panel for the professional conduct process. The referral from the College’s Investigation Committee to a hearing is a referral for a professional conduct matter to be dealt with by a hearing panel under s. 91(1). As the College’s brief explains:

25. **Where the Investigation Committee refers a complaint to a hearing, the Chair of the Hearing Committee shall appoint a hearing panel** consisting of members of the Hearing Committee to act as the Hearing Committee for the purpose of the professional conduct process. (s. 64(1))

26. **“Hearing panel” is defined at subsection 2(1)(m) of the Paramedics Act. Subsection 2(1)(m) states:**

“hearing panel” means a hearing panel appointed pursuant to s. 64(1). (emphasis added)

[18] Section 64(1) of the *Paramedics Act* provides for the appointment by the Chair of the Hearing Committee of a hearing panel to deal with the professional conduct referral from the Investigation Committee.

[19] It is from a decision of a s. 64(1) hearing panel that s. 91(1) provides a

right of appeal to this Court on any point of law. Subsections 91(2) and (3) describe features of the appeal process:

- (2) The notice of appeal must be served upon the Registrar and the complainant.
- (3) The record on appeal from the findings of a hearing panel consists of a copy of the transcript of the proceedings, the decision of the panel and the evidence before the panel certified by the Chair of the Hearing Committee.

[20] These provisions have no application to Ms. Hogg. As the College notes in its brief, she is not:

- A member of the College.
- Involved in a complaint.
- A participant in the College's professional conduct process.
- Subject to any findings of a hearing panel of the Hearing Committee.

[21] Ms. Hogg acknowledges she is not a member of the College and not a participant in or otherwise involved in the professional conduct process.

[22] The provisions of the *Paramedics Act* that apply to Ms. Hogg are the Registration and Licensing provisions. Section 24(1) of the *Act* provides for the appointment of a Registration Committee and a Registration Appeal Committee. Having applied for registration and licensing, Ms. Hogg is an applicant in the College's registration and licensing process and subject to decisions of the Registration Appeal Committee.

[23] Section 31 of the *Act* provides that where an applicant has been refused registration and licensing, the Registrar of the College shall advise them of "the review process set out in the Regulations". An appeal from an unfavourable registration and licensing decision is heard by the Registration Appeal Committee in accordance with ss. 41-53 of the Regulations.

[24] This is the process in which Ms. Hogg is involved.

[25] The Regulations under the *Paramedics Act* provide the Registration Appeal Committee with powers that include:

- Determining its own procedure (s. 46(1));
- Determining that the parties have the right of attendance before it for

the presentation of evidence or submissions (s.46(2));

- Fixing a reasonable time and place for the appeal hearing (s. 47).

[26] The Regulations under the *Act* dealing with the registration and licensing appeals process include no mention of a “hearing panel”. The Registration Appeal Committee conducts appeal hearings, such as the one in which Ms. Hogg is involved. Section 53 of the Regulations establishes that the decision of the Registration Appeal Committee is final. This means there is no right of appeal: the decision which the Registration Committee makes following an appeal hearing cannot be appealed.

[27] Ms. Hogg has no right of appeal to this Court because (1) s. 91(1) of the *Act* applies only to the professional conduct process not the registration and licensing process, and (2) the Regulations governing the Registration Appeal Committee establish that the decisions of the Committee are final decisions.

[28] Ms. Hogg’s case shares a striking resemblance with the circumstances in *Tupper v. Nova Scotia Barristers’ Society*, 2013 NSCA 14. Mr. Tupper’s complaints against seven lawyers were dismissed at a preliminary stage, a dismissal that was confirmed by the Review Committee of the Society. Mr. Tupper sought to appeal the decision of the Review Committee to this Court. The Society made a motion to dismiss Mr. Tupper’s appeal on the basis there was no jurisdiction to hear an appeal from a decision of the Review Committee. Justice Hamilton of this Court held:

[3] Mr. Tupper is correct to concede that he has no right of appeal to this Court. Section 49(2) of the *Act* provides for a right of appeal to this Court on a question of law when a practising lawyer receives a disciplinary sanction or where an interim suspension or restriction in practice is imposed during the process of investigating a complaint. It gives no right of appeal to a complainant whose complaint is dismissed.

[29] Similarly, the right of appeal to this Court under the *Paramedics Act* lies in the professional conduct process of the College of Paramedics. A registered member of the College subject to a disciplinary sanction has a right of appeal to this Court under s. 91(1) of the *Act*. Ms. Hogg does not.

[30] As I have discussed, s. 91(1) of the *Act* has a specific, focused application to the professional conduct process of the College. Ms. Hogg’s broadly construed interpretation of the *Act* that any hearing by a panel, such as an appeal hearing by the Registration Appeal Committee, comes within s. 91(1) is inconsistent with the scheme of the legislation and the intention of the legislature.

[31] As the College notes in its written submission, the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 confirmed that courts interpreting a statute are to apply the “modern principle” of statutory interpretation, which requires that the words of a statute to be read “in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the *Act*, the object of the *Act*, and the intention of Parliament.” (In this case, the intention of the legislature that passed the *Paramedics Act*.) Therefore I must interpret the statutory provisions of the *Act* “in a manner consistent with the text, context and purpose of the provision”, applying “particular insight into the statutory scheme at issue” (*Vavilov*, at paras. 117, 120, 121).

[32] As I have said, the only legally sustainable interpretation of the term “hearing panel” in s. 91(1) of the *Act* is that of a hearing panel conducting a proceeding in the College’s professional conduct process.

The Title Page of the Registration Appeal Committee’s Decision

[33] Ms. Hogg submits that the heading on the title page of the Committee’s May 25 decision imparts a right of appeal to this Court. She is referring to the front page of the Committee’s decision where it says: “In the Matter of: A Hearing Before the Registration Appeal Committee Hearing Panel”.

[34] I appreciate that Ms. Hogg has found the use of “Hearing Panel” on the front page of the decision to be confusing. It would have been more precise and accurate for the description to have been: “A Hearing Before the Registration Appeal Committee” which as I noted earlier, is how the Committee is identified in s. 24(1) of the *Act* and in the Regulations. However, the *Act* defines only one kind of “hearing panel”—in s. 2(1)(m), a hearing panel appointed pursuant to s. 64(1). And to reiterate, s. 64(1) applies in the context of the professional conduct process. It says that where an investigation committee refers a complaint to the Hearing Committee, the Chair of the Hearing Committee shall appoint a hearing panel,

...consisting of at least three persons from the Committee, at least one of whom must be a public representative and at least one of whom must be a member of the College, to act as the Hearing Committee **for the purpose of the professional conduct process.** [emphasis added]

[35] The use of the descriptor “A Hearing Before the Registration Appeal Committee Hearing Panel” does not confer on Ms. Hogg a right of appeal from the Committee’s decision to this Court. A inadvertent mistake on the title page of the Registration Appeal Committee’s decision does not and cannot give this Court the jurisdiction to hear Ms. Hogg’s appeal. The right

of appeal has to be found in the applicable legislation.

[36] There is nothing in the *Paramedics Act* or Regulations that provides Ms. Hogg with a right of appeal to this Court. Section 91(1) does not apply to the registration and licensure process in which she is a participant. She cannot use s. 91(1) to launch an appeal into this Court from the Registration Appeal Committee's May 25, 2023 decision.

The College's Motion for Leave to Amend Notice of Participation

[37] Ms. Hogg opposes the College's motion to amend its Notice of Participation in a Tribunal Appeal on the basis it is "intentionally distorting the matter" before this Court. In other words, Ms. Hogg says the College's assertion that she has no right of appeal to this Court is an intentional distortion of the correct interpretation of her statutory right and therefore, bad faith.

[38] As I have explained, the College's position on this Court's lack of jurisdiction is correct in law. Its motion to dismiss Ms. Hogg's appeal succeeds because there is no right of appeal from a decision of the Registration Appeal Committee, interlocutory or final. The College's motion to dismiss is legitimate. It has not been brought for "an improper purpose such as delay or obstruction of the proceeding or to subvert the ends of justice" (*Mitsui & Co. (Point Aconi) Ltd. v. Jones Power Co.*, 2001 NSSC 178, at para. 29). This Court has no jurisdiction to hear Ms. Hogg's appeal. The College cannot be said to have acted in bad faith by asserting, correctly, that the *Paramedics Act* and Regulations provide no right of appeal.

Conclusion

[39] As I have said, a right of appeal to this Court must be found in the *Paramedics Act* or its Regulations. The right that exists under s. 91(1) of the *Act* is unavailable to Ms. Hogg as an applicant for registration and licensure. It is a route of appeal provided by statute for professional conduct matters.

[40] This Court has no jurisdiction to hear the appeal Ms. Hogg is seeking to pursue from the Committee's decision. There is no bad faith in the College bringing a motion to dismiss the appeal and no prejudice to Ms. Hogg occasioned by the amendment of the College's notice of participation.

Costs

[41] The College seeks nominal costs of the motion of \$500. Ms. Hogg indicates she has not been working and has no means. I am exercising my discretion to not award costs.

Disposition

[42] Ms. Hogg has no right of appeal to this Court from the May 25, 2023 decision of the Registration Appeal Committee. I grant the College's motion under *Civil Procedure Rule 90.40(3)* without costs and dismiss Ms. Hogg's appeal. I grant the College's motion to amend its notice of participation in a tribunal appeal. The appeal that was schedule in this Court for November 28, 2023 at 2 p.m. will not proceed.

Derrick, J.A.

NOVA SCOTIA COURT OF APPEAL

Citation: *Hogg v. College of Paramedics of Nova Scotia (Registration Appeal Committee)*, 2023 NSCA 62

Date: 20230905
Docket: CA 525057
Registry: Halifax

Between:

Sybil Hogg

Appellant

v.

Registration Appeal Committee Hearing Panel, College of Paramedics of Nova Scotia, Attorney General of Nova Scotia

Respondent

ERRATUM

Corrected Decision: The text of the original decision has been corrected according to the attached erratum dated February 6, 2024.

Judge: Anne S. Derrick, J.A.

Motion Heard: August 31, 2023, in Halifax, Nova Scotia in Chambers

Written Decision: September 5, 2023

Held: Motion granted without costs.

Counsel: Sybil Hogg, self-represented appellant
Ryan Baxter, for the respondent, College of Paramedics
Loretta Manning, KC, for the respondent, Registration Appeal Committee (not participating)
Edward A. Gores, KC, for the respondent, Attorney General of Nova Scotia (not participating)

Details: The words “Registration Committee” in paragraph 27 are changed to “Registration Appeal Committee”.