

NOVA SCOTIA COURT OF APPEAL

Citation: *Ellsworth v. Nova Scotia (Workers' Compensation Appeals Tribunal)*,
2013 NSCA 131

Date: 20131119
Docket: CA 395440
Registry: Halifax

Between:

Michael Ellsworth

Appellant

v.

Nova Scotia Workers' Compensation
Appeals Tribunal, the Workers' Compensation
Board of Nova Scotia, the Attorney General for the
Province of Nova Scotia, and Surette Battery Co. Ltd.

Respondents

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: June 18, 2013, in Halifax, Nova Scotia

Subject: Workers' compensation law; Interpretation of the **Workers' Compensation Act**, S.N.S. 1994-95, c. 10, s. 227 calculation of benefits

Summary: The appellant sustained a number of compensable injuries over the years. Relevant to this appeal are his injuries on December 23, 1987, February 2, 1995, and February 11, 2006. The appellant has been unable to work since being injured in 2006. WCAT found that the appellant's injury in 2006 was a recurrence of his 1987 injury and, in interpreting s. 227 of the **Act**, awarded him benefits under the workers' compensation regime in place in 1987.

Issues: (1) Did the WCAT err in its interpretation of s. 227 of the **Act**?

Result:

Appeal allowed. WCAT's interpretation of s. 227 was unreasonable and led to an absurd result. The matter remitted to the Board to calculate Mr. Ellsworth's compensation without regard to s. 227.

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 19 pages.