

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Egg Films Inc. v. Nova Scotia (Labour Board)*, 2014 NSCA 33

**Date:** 20140403

**Docket:** CA 416865

**Registry:** Halifax

**Between:**

Egg Films Incorporated

Appellant

v.

The Labour Board and the International Alliance of Theatrical Stage Employees,  
Moving Picture Technicians, Artists and Allied Crafts of the United States,  
its Territories, and Canada, Local 849

Respondents

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**Judge:**

The Honourable Justice Joel E. Fichaud  
The Honourable Peter M.S. Bryson (Dissenting)

**Appeal Heard:**

December 9, 2013, in Halifax, Nova Scotia

**Subject:**

Labour relations-certification-administrative law

**Summary:**

Egg Films produces television commercials and promotional films for clients. It hires a crew of technicians for each project. The projects usually last one day. IATSE, Local 849 applied for certification of the technicians' classifications under the *Trade Union Act*, R.S.N.S. 1989, c. 475. The Labour Board held that the technicians were "employees" under s. 2(1)(k) of the *Act* and that the technicians' classifications were an appropriate bargaining unit. Egg Films applied for judicial review. A judge of the Supreme Court of Nova Scotia dismissed the application. Egg Films appealed to the Court of Appeal.

**Issues:** Were the Labour Board’s conclusions, that the technicians were “employees” under s. 2(1)(k) and that the unit was appropriate, reasonable?

**Result:** Per Fichaud, J.A. (with Saunders, J.A. concurring):  
According to the majority: the Labour Board’s conclusion that the technicians were “employees” and that the unit was appropriate were reasonable interpretations of the *Trade Union Act*’s words, context, scheme and objectives. The judge did not err, and the appeal was dismissed.  
Per Bryson, J.A. (dissenting): The appeal should be allowed. It was unreasonable for the Board to use an “industry dependent” test to determine employee status. Nor did the Board’s factual findings or its analysis reasonably support the conclusion that the appellant was part of the “film industry” on which the technicians were said to be dependent.

*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 66 pages.*