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FLINN, J.A.
(orally)

December 9, 1998

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SUBJECT: Notice of Appeal - Timeliness - s. 61 Revenue Act, S.N.S. 1995-96, c.
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SUMMARY: The Utility and Review Board decided that it had no jurisdiction to hear the appellant's appeal - from a decision of the Provincial Tax Commissioner - because the appellant's notice of appeal was out of time; and because the Board had no jurisdiction to extend the time. Section 61 of the **Revenue Act**, provides that an appeal is taken by filing a notice of appeal with the Clerk of the Board within 30 days of the appellant's receipt of the decision of the Provincial Tax Commissioner. The appellant's 30 day period expired on February 6th, 1998. The notice of appeal was mailed February 5th, 1998; however, it was not directed to the Clerk of the Board as required. It was mailed to the Provincial Tax Commissioner's office. It arrived at that office on February 9th, 1998. It was February 12th, 1998, before it eventually got to the Clerk of the Board.

RESULT: Appeal dismissed. The Board made no jurisdictional error. The late filing of the notice of appeal deprived it of jurisdiction to entertain the appeal, and the Board had no power to extend the appeal period (see **Glow Worm Investments Ltd. v. Atlantic Shopping Centres Ltd. and Provincial Planning Appeal Board** (1981), 46 N.S.R. (2d) 223; and **Re: Chafe** (1974), 10 N.S.R. (2d) 261).

The appellant submits that he was told by an auditor at the Provincial Tax Commissioner's office that everything would be okay with his notice of appeal as long as it was date stamped by the last day required for the

appeal; and, on the basis of the doctrine of equitable estoppel, the Board should be required to entertain his appeal. While not agreeing that the doctrine of equitable estoppel applies to this case, the Court of Appeal said that the appellant could not rely on that doctrine because the notice of appeal was not sent to the proper party initially.

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DECISION, QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER
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