

NOVA SCOTIA COURT OF APPEAL
Citation: *Flinn v. Halifax Regional School Board*,
2014 NSCA 64

Date: 20140618
Docket: CA 418643
Registry: Halifax

Between:

Joseph Flinn

Appellant

v.

The Halifax Regional School Board

Respondent

Judge: The Honourable Justice J.E. (Ted) Scanlan

Appeal Heard: April 4, 2014, in Halifax, Nova Scotia

Subject: **Duty to accommodation of a disability in the workplace. Dismissal from employment due to employer's inability to reasonably accommodate the employee's disability. Human Rights Act, duty to accommodate disability, BFOR standard under that act.**

Summary: The appellant was a school teacher who had inappropriate email communications with a student during the summer vacation period. The School Board accepted a recommendation that the teacher be dismissed from his employment. That decision was upheld at an Appeal Board hearing held pursuant to the **Education Act**. The school teacher then applied to the Supreme Court for a judicial review of the Appeal Board decision. The reviewing judge upheld the dismissal.

It was agreed at the Appeal Board hearing that the appellant was not culpable for his actions because he was suffering from an illness at the time of the incidents. That illness affected his judgment. Expert evidence suggested that he would continue to suffer from the same disability in the future, but it could be controlled. The Appeal Board was not satisfied that the school board could monitor the appellant to the degree necessary to ensure student safety, should a relapse occur. The appellant, with a previously clean record, was dismissed from his employment as a teacher.

The trial judge on the judicial review upheld the dismissal from employment, finding that the Appeal Board's decision was reasonable.

Result: Appeal dismissed: The reviewing judge did not err in upholding the Appeal Board's dismissal of the appellant.

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 17 pages.