

NOVA SCOTIA COURT OF APPEAL

Citation: *Metropolitan Entertainment Group v. Nova Scotia
(Workers' Compensation Appeals Tribunal)*, 2007 NSCA 30

Date: 20070306

Docket: CA 265484

Registry: Halifax

Between:

Metropolitan Entertainment Group

Appellant

v.

The Nova Scotia Workers' Compensation Appeals Tribunal,
The Workers' Compensation Board of Nova Scotia and
Nancy Noel

Respondents

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: February 6, 2007

Subject: Workplace injury. Casino. Blackjack. Roulette. Sticky chips and spinning the wheel. Standard of Review. Credibility. When misapprehending or misstating the evidence, or making egregious factual errors amount to an error in law.

Summary: The employer appealed WCAT's decision (reversing earlier findings by a Board Adjudicator, and Hearing Officer) concluding that the respondent was entitled to receive benefits for an injury pursuant to s. 10(1) of the **Workers' Compensation Act**, R.S.N.S. 1989, c. 508, as amended. The worker was a blackjack dealer at the Halifax Casino. She claimed injury to her left elbow and neck as a result of spinning the roulette table and dispensing betting chips; chores she said were especially strenuous because of unusually sticky table tops on days with high humidity, and longer shifts without a break due to reduced staff.

Held: Appeal allowed. The WCAT Commissioner made a series of patently unreasonable findings with respect to the medical evidence, and attributed conclusions to the medical experts that were expressly rejected by those same physicians in their reports. These mistakes in understanding, interpreting, describing and applying the factual evidence were central to the tribunal's reasoning, and amount to errors of law requiring intervention.

Appeal allowed, WCAT decision set aside, and matter remitted to the WCAT for a rehearing before a differently constituted Tribunal.

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.