

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *L.G. v. Children's Aid Society of Halifax*, 2005 NSCA 163

**Date:** 20051220

**Docket:** CA 252622

**Registry:** Halifax

**Between:**

L.G.

Appellant

v.

Children's Aid Society of Halifax

Respondent

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Restriction on publication: Section 94(1) of the *Children & Family Services Act*

**Judge:** Honourable Justice Linda Lee Oland

**Appeal Heard:** December 1, 2005

**Subject:** *Sections 9, 13 and 42(2) of the Children and Family Services Act, S.N.S. 1990, c. 5, as amended. Services provided by Agency. Permanent care and custody.*

**Summary:** After having been found to be in need of protective services in 2002 and returned to her mother in early 2004, the child was taken into care again in late 2004. Before the child's return to her mother, the Agency had provided services and the mother had accessed community-based services. However by late 2004 the living conditions had again deteriorated to the point the mother acknowledged that they were deplorable, and she had not been able to maintain stable accommodation or to ensure that her bills for necessities such as power and rent were paid. The trial judge found that there had been serious neglect and concluded that the return of the child to her mother would inevitably result in her neglect again. The mother appealed alleging that he erred in fact and law by misrepresenting rent and power as services contemplated by the *Act* and that she had not been provided with

services after the child was taken into care the second time.

**Result:**

Appeal dismissed. While, in commenting on s. 42(2)(b) the trial judge noted that the mother had repeatedly not paid rent or power and has effectively refused the most basic services, s. 42(2) is disjunctive so he only had to be satisfied as to any of its paragraphs (a), (b) or (c). His findings of fact as to the other paragraphs were not contested. The trial judge considered the *Act's* provisions dealing with the Agency's duty to provide services together with the relevant case law, and his factual finding were founded on the evidence. He made no error in legal principle nor any palpable and overriding error in his finding of the facts.

**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 11 pages.**