

NOVA SCOTIA COURT OF APPEAL

Citation: *Wright v. Nova Scotia (Public Service Long Term Disability Plan Trust Fund)*, 2006 NSCA 101

Date: 20060817

Docket: CA 260409

Registry: Halifax

Between:

The Nova Scotia Public Service Long Term
Disability Plan Trust Fund

Appellant

v.

Robert Bruce Wright

Respondent

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: May 15, 2006

Subject: Issue estoppel based on a tribunal decision; disability insurance

Summary: Mr. Wright's disability insurance was cut off when he reached the point at which the relevant definition of disability required that he be unable to perform any occupation for which he was fit through education, training, experience or rehabilitation which paid at least 80% of the current rate of pay of his former position. He appealed, unsuccessfully, to a medical appeal board set up under the terms of the plan and then sued in the Supreme Court for continuing benefits. The Plan defended on the basis that the claim was barred by issue estoppel and that it failed on the merits. The judge found in Mr. Wright's favour and the Plan appealed.

Issues:

1. Did the judge err in finding that Mr. Wright's law suit was not barred by issue estoppel?
2. If so, did the judge err in exercising his discretion to

- disallow the issue estoppel defence?
3. Did the judge err in finding that Mr. Wright was disabled within the meaning of the Plan?

Result:

Appeal dismissed. While the Plan had established all the requirements for the operation of issue estoppel, the judge did not err in refusing as a matter of judicial discretion to give effect to that defence. The judge did not err in finding that Mr. Wright was disabled within the meaning of the Plan.

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 32 pages.