

NOVA SCOTIA COURT OF APPEAL

Citation: *Dipersio v. Nova Scotia (Workers' Compensation Appeals Tribunal)*,
2004 NSCA 139

Date: 20041119

Docket: CA 209460

Registry: Halifax

Between:

Hector G. Dipersio

Appellant

v.

Workers' Compensation Appeals Tribunal
and Workers' Compensation Board
and Rowan Companies Inc.

Respondent

Judge: The Honourable Justice Fichaud

Appeal Heard: October 5, 2004

Subject: **Workers' Compensation**

Summary: Workers' Compensation Board withheld benefits from worker because in 1991 the worker had received a settlement of his law suit in Texas against his employer. His award was made in 1989 under the former *Workers' Compensation Act*.

Issue: Does s. 32 of the current *Workers' Compensation Act* (1996) entitle the WCB to withhold payment of a 1989 continuing award because of the workers' 1991 receipt of settlement funds from his employer?

Result: Section 32 of the 1996 *Act* applies only to workers who had a right of action on or after the *Act* came into force. Section 32 does not apply to a right of action which was settled in 1991. The Workers' Compensation Board was not entitled to withhold payment.

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 22 pages.