NOVA SCOTIA COURT OF APPEAL

Citation: Halifax (Regional Municipality)v. Cheevers, 2006 NSCA 54

Date: 20060505
Docket: CA 253062
Registry: Halifax

Between:

Halifax Regional Municipality

Appellant

v.

Francis F. Cheevers

Respondent

Judge: The Honourable Justice Freeman

Appeal Heard: March 23, 2006

Subject: **Torts; Causation, Duty of Care, Standard of Care; Damages for
                Lost Wages; Cross- appeal for Damages for Lost Earning
                Capacity**

Summary: The respondent electrician was badly burned in an explosion while
            working on an electrical control panel at the appellant's sewage
            treatment plant. He was awarded damages when the trial judge found
            the explosion was caused by silver fines from deteriorating silver
            coating on high-voltage bus bars which caused a short circuit across
            the disconnect switch in the unit the respondent was working on. The
            appellant was negligent in not conducting inspections which would
            have disclosed the danger. Non-pecuniary damages and damages for
            lost income was awarded but none under the head of lost earning
            capacity. The appellant appealed and the respondent cross-appealed.

Issues: The appellant alleged the trial judge erred in failing to find the
            explosion was caused by the respondent's negligence and not by the
            silver fines, and in finding the standard of care included a duty to
            inspect, as well as error in calculating lost wages.   The respondent

cross-appealed for damages for lost earning capacity.

Result: The appeal and the cross-appeal were dismissed with costs. The trial judge did not err in law nor did he make palpable and over-riding errors in assessing the facts. In assessing lost wages he did not proceeded upon a mistaken or wrong principle and the result was not wholly erroneous. He did not err in making a provision for lost earning capacity in assessing non-pecuniary damages.

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 21 pages.