

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Halifax Shipyard v. Local One Industrial Union of Marine and Shipbuilding Workers of Canada
2005 NSSC 1

Date: 2005 01 06
Docket: S.H. 213795
Docket: S.H. 215929
Registry: Halifax

BETWEEN:

Halifax Shipyard, A Division of Irving Shipbuilding Inc.

Applicant

and

Local 1, Industrial Union of Marine and Shipbuilding Workers of Canada

Respondent

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Local 1, Industrial Union of Marine and Shipbuilding Workers of Canada

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Halifax Shipyard, A Division of Irving Shipbuilding Inc.

Respondent

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Judge: The Honourable Justice Gerald R. P. Moir

Heard: 19 August 2004

Subjects: Judicial Review, Labour Rights Arbitration, Standard of Review; Same, Discretion to Reduce Penalty

Summary: Employment of seven employees was terminated on the ground they engaged in an illegal work stoppage. An arbitrator found they had engaged in an illegal strike but he reduced the penalty to six month suspensions. Union challenged the finding of an illegal strike; employer challenged the reduction in penalty.

Issues: Of course, standard of review was in issue. Also, findings of fact were put in issue. Further, the arbitrator had either rejected or failed to deal with the employer's argument that the collective agreement had been amended to make illegal strikes major offences attracting a specific penalty, termination of employment, in respect of which there is no discretion to reduce penalty.

Result: On questions of fact, deference is owed at the highest standard. On points of law within the arbitrator's expertise reasonableness was the standard. The findings should not be interfered with. On the points of law concerning amendment and discretion, the arbitrator reasonably reached the conclusion that the specific penalty of termination could not be applied unless members were given notice of either the alleged amendment or a new company policy.

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