

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Nova Scotia (Community Services) v. Brenna, 2005 NSSC 67

Date: 20050404

Docket: SN 232357

Registry: Sydney

Between:

The Department of Community Services

Applicant

v.

Anthony Brenna

Respondent

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Judge: The Honourable Justice Frank Edwards

Heard: March 23, 2005, in Sydney, Nova Scotia

Subject: Judicial review; certiorari application regarding decision of Assistance Appeal Board.

Facts: Respondent recipient had refused to sign authorization to allow Department of Community Services to check information regarding several properties registered in the Respondent's name between 1992 and 2002. The Department terminated the Respondent's benefits and declared an overpayment since 1992 of \$98,167.20. The Respondent appealed the Department's decision to the Social Assistance Appeal Board. The appeal was allowed. The Department applied to this Court for an Order in the nature of *certiorari* quashing the Board's decision.

Issue: Whether the Board erred in allowing the Respondent's Appeal.

Result: Application granted. The Respondent was required by

Regulation 5(2) of the Regulations made pursuant to the *Employment Support and Income Assistance Act*, S.N.S. 2000, c.27 to sign the authorization. Once satisfied of such a refusal, the Board was required to uphold the decision to terminate benefits. The Board's decision was quashed and the matter remitted for rehearing before a different Board.

Cases Noted:

Levandier v. Police Review board (N.S.) Et al (1994),
128 N.S.R. (2d) 66 (N.S.S.C.)

C.U.P.E. v. Ontario (Minister of Labour) [2003] S.C.J.
No. 28, (SCC)

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