

SUPREME COURT OF NOVA SCOTIA

Citation: Nova Scotia Power Inc. v. AMCI Export Corporation, 2005 NSSC 127

Date: 20050429

Docket: S.H. 219171

Registry: Halifax

Between:

Nova Scotia Power Incorporated, a body corporate

Plaintiff

v.

AMCI Export Corporation, a body corporate

Defendant

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Judge: The Honourable Justice C. Richard Coughlan

Heard: April 26, 2005 (in Chambers), at Halifax, Nova Scotia

Decision: April 29, 2005 (Orally)

Written Release: May 26, 2005

Subject: Practice - Attachment Orders - Grounds for Granting Order

Summary: The defendant, a body corporate, incorporated in the United States, is registered pursuant to the *Corporations Registration Act*. The plaintiff applied for and obtained an Attachment Order. The defendant applied to vacate or set aside the Attachment Order on the basis the plaintiff had failed to establish any grounds for granting an Attachment Order as set out in Civil Procedure Rule 49.01(1)(a) to (f). The defendant said Rule 49.01(1)(a) does not apply as it is registered pursuant to the *Corporations Registration Act*.

Issue: Does Civil Procedure Rule 49.01(1)(a) apply as a basis to grant an Attachment Order in the case of a body corporate not resident in Nova Scotia, but registered pursuant to the *Corporations Registration Act*?

Result:

Civil Procedure Rule 49.01(1)(a) applies if either the defendant resides out of the jurisdiction in one case or, in another, if a body corporate is not registered under the *Corporations Registration Act*. In this case, the defendant is resident out of the jurisdiction and, therefore, the first part of Rule 49.01(1)(a) applies.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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