

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Bidart v. MacLeod, 2005 NSSC 100

Date: 20050504

Docket: SC SN NO. 235392

SC NO. 243069

Registry: Sydney

Between:

Stephen Bidart c/o Atlantic Recreation & Marine

Appellant

v.

Harold John MacLeod

Respondent

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Judge: The Honourable Justice Frank Edwards

Heard: May 2, in Sydney, Nova Scotia

Subject: Small Claims Court Appeal; procedural fairness and the requirements of natural justice

Facts: The Claimant had alleged negligence on the part of the Appellant/Defendant regarding the repair of the Claimant's boat. The Adjudicator allowed the Claimant to re-open his case after the Defendant had closed his case. The Adjudicator advised the Claimant that the Adjudicator required expert evidence, otherwise the claim of negligence was unsupported.

Issue: Was there a breach of procedural fairness which amounted to a denial of natural justice?

Result: Appeal allowed and new hearing ordered before a different Adjudicator. If the Adjudicator was going to allow the Claimant to call additional evidence, he should have done so before the Appellant/Defendant was called upon to call evidence. Also, some comment on the advice given by the Adjudicator and the effect of lack of transcript on the quality of the Appellant's right of appeal.