

IN THE SUPREME COURT OF NOVA SCOTIA

**Citation:** Cheevers v. Halifax (Regional Municipality) 2005NSSC153

**Date:** 20050615

**Docket:** S.H. 158344

**Registry:** Halifax

**BETWEEN:**

Francis F. Cheevers

Plaintiff

and

Halifax Regional Municipality

Defendant

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**Judge:** The Honourable Justice Gerald R. P. Moir

**Heard:** 1, 2, 6, 7, 8, 9, and 10 December 2004 with submissions until 5 January 2005

**Subjects:** Negligence: Causation; Duty of Care; Standard of Care  
Damages: Non-pecuniary; Lost Income; Lost Capacity

**Summary:** Silver plate peeled and flaked off 600v bus bars in the motor control centre of a sewage treatment plant. The bus bar compartment had not been inspected or cleaned for many years. An independent contractor was badly burned by arcing when he was working on the switchboard in the motor control centre.

**Issues:** Duty of care; Standard of care; Causation; Non-pecuniary damages; Lost income; Lost earning capacity.

**Result:** The municipal operator owed a duty to workers who would come into the motor control centre. Although preventative maintenance was not commonly practised on motor control centres in sewage treatment plants, preventative maintenance was the standard. But for the failure to inspect and clean at least every few years, the plaintiff would not have been injured. Lost income was assessed. Lost earning capacity was too speculative. Non-pecuniary damages set at \$90,000 to address extreme pain and damage to profession.

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