

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Pottie v. Nova Scotia (Real Estate Commission), 2005NSSC177

Date: 20050627

Docket: S.H. 223574A

Registry: Halifax

Between:

Pat Pottie

Appellant

v.

The Nova Scotia Real Estate Commission

Respondent

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Judge: The Honourable Justice Gregory M. Warner

Heard: June 9, 2005 in Halifax, Nova Scotia

Subject: Administrative Law - Appeal from Discipline Committee

Issue: A real estate salesman appealed the finding by the Discipline Committee of the Nova Scotia Real Estate Commission that found him guilty of five acts of professional misconduct and imposed upon him several sanctions including a two year license suspension and hearing costs of \$10,000.00.

Summary: A realtor sold a lady in Texas a condominium and agreed to rent the condominium for her for a fee. He obtained a security deposit and rent beginning October 1, 2002 and deposited it in his personal account and used it for personal living expenses. When the owner inquired, he caused a false lease to be provided to her showing the rental commencing December 1, 2002. He failed to remit some rent and was late remitting some. When the owner complained to the Real Estate Commission, he made a settlement with her (including her withdrawal of the complaint), but the Commission pursued the investigation on its own. The realtor misled and did not co-operate with the Commission. At a discipline hearing, his evidence was found not credible. The Committee gave a

written decision outlining the reasons for finding him guilty of misconduct, but failed to provide reasons for the sanctions imposed.

Result:

Applying the standard of review of reasonableness to the Committee's findings of unprofessional conduct, the appeal from the finding of misconduct was dismissed. Applying the standard of review of correctness to the Committee's failure to give reasons for the sanctions, the Court granted the appeal and remitted the issue of sanctions back to the Committee for reconsideration, based on the principles of sanctioning outlined in the decision.

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