

SUPREME COURT OF NOVA SCOTIA

Citation: *Brennan v. Nova Scotia (Agriculture)*, 2015 NSSC 171

Date: 2015-0610

Docket: Halifax No. 437570

Registry: Halifax

Between:

Annette Brennan

Applicant

v.

Nova Scotia (Minister of Agriculture)

Respondent

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Judge: The Honourable Justice Michael J. Wood

Heard: May 27, 2015 in Halifax, Nova Scotia

Subject: Judicial Review – Standard of review
Administrative Law – Nature of ministerial review

Summary: Inspector from Department of Agriculture seized Newfoundland Ponies from Applicant's farm on the basis that they were in distress. Inspector decided not to return ponies due to Applicant's history of incidents of animals in distress. Applicant requested ministerial review of decision not to return her ponies under the *Animal Protection Act*. Deputy Minister made decision that did not result in return of the ponies and Applicant sought judicial review of that decision.

Issues:

- (1) What is the proper standard of review for the Deputy Minister's decision?
- (2) What is the nature of the Deputy Minister's review of the inspector's decision not to return the ponies?
- (3) Should the review decision be set aside?

Result:

The review by the Deputy Minister is not limited to assessing the correctness of the inspector's decision, it is to be a broad consideration of whether the animals should be returned to the owner. His decision on the nature of the review is to be assessed using a standard of correctness.

Deputy Minister was wrong in deciding that his review was to assess the correctness of the inspector's decision to seize the animals. It should have been the broader question of whether they should be returned to the Applicant.

Judicial review granted and matter remitted to the Minister for a further review.

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