

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Cape Breton (Regional Municipality) v. Nova Scotia Government and General Employees Union, 2005 NSSC 347

Date: 20051220
Docket: S.H. No. 254580
Registry: Halifax

Between:

The Cape Breton Regional Municipality
Applicant

-and-

The Nova Scotia Government and General Employees Union
Respondent

-and-

The Honourable Kerry Morash, The Minister of Environment and Labour
Respondent

-and-

The Attorney General of Nova Scotia representing Her Majesty the Queen
in right of the Province of Nova Scotia
Respondent

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Judge: The Honourable Justice Arthur W.D. Pickup

Heard: December 7, 2005 at Halifax, Nova Scotia

Written

Decision: December 20, 2005

Subject: Judicial Review/Certiorari

Summary: The applicant The Cape Breton Regional Municipality (hereinafter referred to as “CBRM”) employs a group of unionized police officers who are represented by the respondent The Nova Scotia Government and General Employees Union (hereinafter referred to as “NSGEU”). The Collective Agreement between the parties expired and NSGEU served a written Notice to Bargain pursuant to the *Trade Union Act* on CBRM on January 12, 2005. Subsequent, to the Notice to Bargain but before the parties began negotiations amendments to the *Trade Union Act* were proclaimed into force that abolish police strikes and substituted a system of interest arbitration. Talks failed and a conciliation officer was appointed but no agreement was reached. The NSGEU gave notice to CBRM that it intended to refer the Collective Agreement to interest arbitration

pursuant to the new amendments. The Minister appointed an interest arbitrator. CBRM objected taking the position that the amendments to the *Trade Union Act* were being applied retrospectively and interfered with its vested rights. The Minister maintained his position that the matter would go to interest arbitration and as a result an application was brought in the nature of *certiorari* to quash and set aside the decision of the Minister of Environment and Labour to appoint an interest arbitration board and to quash the appointment of the interest arbitrator.

Issue: What is the appropriate standard of review? Were the amendments to the *Trade Union Act* retrospective and/or did they interfere with the vested rights of CBRM?

Result: Decision of Minister reviewed on correctness standard. Application for *certiorari* dismissed.

**THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THE COVER SHEET.**
