

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Islam v. Dalhousie University*, 2015 NSSC 285

**Date:** 20151007

**Docket:** Halifax No. 436585

**Registry:** Halifax

**Between:**

Dr. Rafiq Islam

Applicant

v.

Dalhousie University

Respondent

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**Judge:** The Honourable Justice Michael J. Wood

**Heard:** July 27, 2015 in Halifax, Nova Scotia

**Subject:** Administrative Law – Judicial Review  
Labour Arbitration – Review of Award

**Summary:** Dr. Islam was suspended by Dalhousie in 2008 and placed on medical leave under CBA. Faculty Association filed grievance but later withdrew and grievance dismissed. In 2011 Dr. Islam's employment was terminated while on medical leave and he grieved that action. Dalhousie made preliminary motion to dismiss grievance as not being arbitrable under CBA. Arbitrator granted motion and dismissed grievances.

**Issues:** (1) Was decision of arbitrator reasonable?

**Result:** Arbitration award set aside as being unreasonable. Earlier grievance did not deal with same issues of discrimination. In particular issue of breach of duty to accommodate to point of undue hardship upon

termination was new. Arbitrator made findings of fact and drew inferences in favour of Dalhousie which were not appropriate on preliminary motion. Grievances raised issues that should be decided on arbitration and not jurisdictional hearing. Complaints fell within scope of individual grievance under CBA.

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