

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Scotia Recovery Services v. Dimensionally Specialized Carriers Inc, 2008 NSSC 210

Date: 20080627

Docket: S.H. No. 264653A

Registry: Halifax

Between: Scotia Recovery Services
Appellant

v.

Dimensionally Specialized Carriers Inc.
Respondent

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Judge: The Honourable Justice Gerald R P Moir

Heard: 26 May 2008 in Halifax

Subjects: Small Claims appeal; conversion and ownership; delayed report

Summary: Corporation that claimed ownership of truck repossessed it. Adjudicator found its agent liable for conversion and dismissed claim to ownership as irrelevant. This court delayed for nearly a year notifying the adjudicator of appeal. Adjudicator delayed another year preparing a report.

Issues: (1) Whether ownership irrelevant?
(2) Whether order should be set aside because of delay filing report?

Result: (1) In a case in which there is no question of a bailment on terms, it is necessary to determine which party has the immediate right to possession;
(2) The failure of the prothonotary to send the notice of appeal, as required by Regulation 22, and the failure of the adjudicator to file a report before the deadline in s. 32(4) do not automatically terminate jurisdiction. However, when delay is so long that parties and public lose confidence in the report as a limited substitute for a record, there is a breach of the duty of fairness. Order set aside. Rehearing is necessary.

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