

SUPREME COURT OF NOVA SCOTIA

Citation: Borden v. Nova Scotia (Attorney General), 2009 NSSC 132

Date: 20090423

Docket: Hfx. No. 168101

Registry: Halifax

Between:

Robert Lawrence Borden

Plaintiff

v.

The Attorney General of Nova Scotia; representing Her Majesty the Queen in right of the Province of Nova Scotia, and the Children's Aid Society of Halifax County, a body corporate, and the Children's Aid Society of Colchester County, a body corporate, and the Nova Scotia Home for Colored Children, a body corporate.

Defendants

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Judge: The Honourable Justice Walter R.E. Goodfellow

Heard: March 23, 2009 in Halifax, Nova Scotia

Subject: Summary judgment; limitations of actions; discoverability rule.

Summary: Robert Borden was a resident of the Nova Scotia Home for Colored Children (Home) from 1966 to 1973 and again from 1980 to 1985. He was a ward of the Children's Aid Society until its termination on August 27, 1974. Limitation periods 1 years for assault; 6 years for negligence and sexual abuse with the time frame for sexual abuse to commence in accordance with s. 5 of the *Limitation of Actions Act*, R.S.N.S. 1989, c. 258 (as amended).

Issue: Application of limitation period? Question of Fact.

Result: Undisputed facts establish that Borden attained the age of majority on July 14, 1983. Borden knew upon departure from Home that what had happened to him was wrong and in relatively short order was fully aware of harm resulting to him from such wrongs. Borden had open, full

discussion with elder lady (complete stranger) in 1986/87 and full disclosure and discussions with personal friend commencing in 1986 and friend urged him to pursue justice. Borden commenced this action on March 1, 2001 and all of the undisputed evidence relied upon by the Court was the evidence of Borden, given under oath on discovery, answering interrogatories and by affidavit. All actions against the Home and Truro Agency statute barred except no limitation period for Borden's action against Home on breach of fiduciary duty. No evidence to support claim for breach of fiduciary duty against Truro agency and summary judgment dismissing that action also granted. Counsel are entitled to be heard on costs.

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