

SUPREME COURT OF NOVA SCOTIA

Citation: *CIBC Life Insurance Company v. Hupman*, 2016 NSSC 120

Date: 20160505

Docket: Hfx No. 446408

Registry: Halifax

Between:

CIBC Life Insurance Company Limited

Appellant

v.

Bette Hupman

Respondent

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Judge: The Honourable Justice Suzanne M. Hood

Heard: April 15, 2016, in Halifax, Nova Scotia

Oral Decision: April 15, 2016

**Written Release of
Oral Decision:** May 5, 2016

Subject: Small Claims Court; jurisdiction to reconsider default judgment; breach of natural justice.

Summary: Adjudicator did not reconsider a decision where there was a hearing but no defence was filed and no defendant appeared.

Issues: Is it a breach of natural justice to have no power to reconsider in such a case when there is such power 1) where there is a hearing and 2) where a defence is filed but the defendant does not attend the hearing.

Result: Matter remitted for new hearing. There was an arguable defence, a reasonable excuse for the default and no evidence of prejudice to the claimant. It was a breach of natural justice not to consider when there is such a power in s.23(1) and s.23(3) of the *Small Claims Court Act*. *Kemp v. Prescesky*, 2006 NSSC 122, applied.

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