

SUPREME COURT OF NOVA SCOTIA

Citation: Awan v. Cumberland Health Authority, 2009 NSSC 295

Date: 20090915

Docket: Hfx No. 214285

Registry: Halifax

Between:

Shahid I. Awan

Plaintiff

v.

Cumberland Health Authority and the Attorney General of Nova Scotia
representing Her Majesty the Queen in Right of the Province of Nova Scotia

Defendants

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Judge: The Honourable Justice C. Richard Coughlan

Heard: September 8, 2009, in Halifax, Nova Scotia

Decision: September 15, 2009 (Orally)

**Written Release
of Decision:** October 20, 2009

Subject: Practice - Prejudgment Interest and Costs

Summary: The proceeding was commenced January 21, 2004 and the trial scheduled for November, 2008 was by consent rescheduled to May, 2009. The plaintiff made an Offer to Settle November 14, 2007. The defendant accepted the Offer to Settle on April 7, 2009.

Issues: What is the appropriate rate of prejudgment interest and quantum of costs?

Result: The parties agreed the appropriate time for which prejudgment interest should be payable is from the date the plaintiff's contract was terminated to the date payment was made to him.

The plaintiff claimed prejudgment interest at 5% pursuant to Civil Procedure Rule 70.07. The Rule does not apply to this case as the plaintiff's claims included unliquidated claims. In any event, on the facts of the case it is appropriate to calculate prejudgment interest pursuant to Practice Memorandum 7 of the 1972 Civil Procedure Rules. Prejudgment interest of 3.205% awarded.

Prejudgment interest is not to be taken into account when determining the amount involved. The amount involved is \$475,000.00. This proceeding concluded by acceptance of an Offer to Settle. There has been no trial. Under all circumstances of this proceeding, costs of \$12,500.00 were allowed.

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