

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Nova Scotia (Community Services) v. E.M., 2011 NSSC 12

**Date:** 20110111

**Docket:** Hfx No. 325930

**Registry:** Halifax

**Between:**

Department of Community Services

Applicant

v.

E. M.

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice John D. Murphy

**Heard:** July 13, 2010, in Halifax, Nova Scotia

**Subject:** Judicial review; social assistance

**Summary:** The Department of Community Services sought judicial review of a decision of the Assistance Appeal Board. The respondent required care at home, and sought increased respite funding through a program administered by the Department. The Board ordered an increase in funding, although it declined to admit new evidence at the hearing for the purpose of supporting an even larger increase.

**Issue:** (1) What is the standard of review?  
(2) Does the Appeal Board's decision meet the applicable standard?

The standard of review applicable to a decision of the Assistance Appeal Board on a matter of law was correctness.

There was no basis to find that the Appeal Board erred on a correctness standard in applying Departmental policy, in identifying the legislation it relied upon, or in interpreting the term "respite." The Appeal Board's decision not to admit new evidence should not be disturbed.

**Result:** The application for judicial review was dismissed.

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