

SUPREME COURT OF NOVA SCOTIA

Citation: *United Brotherhood of Carpenters and Joiners of America v. International Association of Heat and Frost Insulators & Allied Workers*,
2016 NSSC 213

Date: 20160812

Docket: Hfx. No. 447549

Registry: Halifax

Between:

United Brotherhood of Carpenters and Joiners of America

and

United Brotherhood of Carpenters and Joiners of America, Local 83

Applicants

and

International Association of Heat and Frost Insulators & Allied Workers

and

International Association of Heat and Frost Insulators & Allied workers, Local 116

and

Arctic Spray Foam Inc.

and

Canadian Plan for the Settlement of Jurisdictional Disputes in the Construction
Industry (Arbitrator, Bruce MacDonald)

Respondents

LIBRARY HEADING

Judge:

The Honourable Justice Arthur W.D. Pickup

Heard: June 8, 2016 in Halifax, Nova Scotia

Final Written Submissions: April 2, 2016, Applicants' brief, Carpenters
April 29, 2016, Respondents' brief, Insulators
April 29, 2016, Respondent's brief, Arctic Spray
April 29, 2016, Respondent's brief, Canadian Plan
May 13, 2016, Applicants' reply brief, Carpenters

Written Decision: August 12, 2016

Subject: Labour law; judicial review; arbitration

Summary: A dispute arose between two unions as to which had jurisdiction to perform certain spray foam work for Arctic Spray Foam in Dartmouth. The objecting union, Insulators, took the dispute to an arbitrator pursuant to a voluntary dispute settlement plan. The responding union, Carpenters, objected to the arbitrator's jurisdiction, and neither Carpenters nor Arctic participated in the arbitration. The arbitrator ruled in favour of Insulators. Carpenters sought judicial review.

Issues: (1) What was the standard of review for the arbitrator's decision that he had jurisdiction to deal with the complaint? (2) Did the arbitrator have jurisdiction? (3) If the arbitrator had jurisdiction, what was the applicable standard of review of the decision to allow the complaint? (4) Did the arbitrator's decision to allow the complaint meet the applicable standard of review?

Result: The standard of review for a true jurisdiction question was correctness. Insulators had not provided a statement to indicate that all parties had stipulated to be bound by the Plan, as its language required. Stipulation of all parties was a pre-condition of the arbitrator's jurisdiction. Carpenters had not stipulated to the Plan by way of an international affiliation or through a collective agreement provision. Since stipulation by all parties was a prerequisite to jurisdiction, the arbitrator was incorrect in assuming jurisdiction. The decision was quashed

for lack of jurisdiction, without the need to consider the other issues.

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