

SUPREME COURT OF NOVA SCOTIA

Citation: Dennis v. Langille, 2013 NSSC 42

Date: 20130204

Docket: Tru No. 389821

Registry: Truro

Between:

Clarence Dennis

Appellant

v.

Rickey E. Langille

Respondent

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Judge: The Honourable Justice John D. Murphy

Heard: October 3, 2012, in Truro, Nova Scotia

Subject: Small Claims Court Appeal

Summary: The vendor sold property on Cobequid Bay without disclosing that it was susceptible to erosion. The Adjudicator ordered the vendor to reimburse the purchaser for the costs of a rock barrier. The vendor appealed.

Issues:

1. Should the appeal be set aside for failure to serve the Respondent within 30 days?
2. Did the Adjudicator err by permitting submissions on latent defects when that issue was not pled?
3. Did the Adjudicator err by finding shoreline erosion on the Cobequid Bay to be a latent defect of the property?

Result: Appeal allowed. The delay in service was inconsequential. Although the Adjudicator was correct to receive submissions on latent defects, he erred in law by deciding that the property's susceptibility to erosion was a latent defect.

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