

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Aucoin v. Murray, 2013 NSSC 37

**Date:** 20130129

**Docket:** Hfx No. 407270

**Registry:** Halifax

**Between:**

Dola Ann Aucoin

Applicant

v.

Nickolas Richard Murray

Respondent

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**Judge:** The Honourable Justice Michael J. Wood

**Heard:** January 15, 2013 (in Chambers) in Halifax, Nova Scotia

**Written Decision:** January 29, 2013

**Subject:** Limitations of Actions - Acknowledgment  
Civil Procedure - Summary Judgment

**Summary:** The applicant made three loans to the respondent, the most recent of which was in 1995. Payments on all of the loans stopped in the 1990's. In 2008, the respondent sent a letter which the applicant claimed was an acknowledgment of the debts. In 2009, the respondent gave the applicant money which she claimed were payments on the debts.

The applicant made a motion for summary judgment on evidence to strike out the defence under the *Limitations of Actions Act*. The respondent made a motion for summary judgment on pleadings, claiming the debts were statute barred.

**Issue:** Did the expiry of the limitation period extinguish the debts so that they could not be revived by acknowledgment or part payment?

**Result:** Since the decision in *Tolofson v. Jensen*, limitation periods are treated as substantive and not procedural. The result is that the underlying cause of action is extinguished upon expiry and cannot be reviewed by acknowledgment. The respondent's motion was granted and the applicant's claim was dismissed.

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