

SUPREME COURT OF NOVA SCOTIA

Citation: Towle v. Samad, 2013 NSSC 260

Date: 20130815

Docket: Hfx No. 406287A

Registry: Halifax

Between:

Clancy D. Towle

Appellant

v.

Arif Samad

Respondent

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Judge: The Honourable Justice Gerald R. P. Moir

Heard: March 26, 2013

Subject: *Small Claims Court Act*; deadline for adjudicator's decision, treatment of hearsay.

Summary: The appellant challenges the jurisdiction of an adjudicator to make an order after the sixty-day deadline. He challenges the use of hearsay, in the form of estimates, to prove damages. (He also challenged various aspects of the decision that involved fact-finding outside the ambit of an appeal.)

Issues: Among other things, this decision discusses the principle of *stare decisis* in reference to Small Claims Court appeals.

Result: The principle of *stare decisis* applies once the Supreme Court establishes a precedent about the *Small Claims Court Act*. According to precedent established by this court, the deadline is directory, not mandatory. Grounds were not apparent for

reconsidering the precedent. On the other hand, the notion that the principled exception for hearsay applies, in a modified way, to hearsay in Small Claims Court is not established precedent. One decision on that point seems to conflict with another. The present decision respectfully concludes that the principled exception does not apply. Hearsay is admissible, and this court cannot review the adjudicator's weighing of it.

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