

SUPREME COURT OF NOVA SCOTIA

Citation: *Nova Scotia (Community Services) v. R.G.*, 2017 NSSC 41

Date: 20170224

Docket: Hfx. No. 455785

Registry: Halifax

Between:

Nova Scotia (Department of Community Services)

Applicant

v.

G.(R.), Assistance Appeal Board (Nova Scotia)

Respondents

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Restriction on Publication:

Pursuant to *Civil Procedure Rule 85.04 and 85.05*

Judge: The Honourable Justice Ann E. Smith

Heard: February 2, 2017, in Halifax, Nova Scotia

Written Decision: February 24, 2017

Judge: The Honourable Justice Ann E. Smith

Subject: Judicial review of decision of Assistance Appeal Board (Nova Scotia)

Summary: The applicant applied for judicial review of a decision of the Assistance Appeal Board which determined that G.(R.) was entitled to a shelter allowance in excess of the maximum allowance provided for in Section 45 of the *Regulations* made under the *Employment Support and Income Assistance Act*, S.N.S. 2000, c. 27.

Issues: Did the Board err in law when he interpreted Section 46 of the *Regulations* to allow a supervisor to grant a shelter allowance in excess of the \$535 provided in Section 45 of the *Regulations*?

Result: The standard of review is reasonableness. The Adjudicator's decision did not meet the reasonableness standard. An interpretation of Section 45 of the *Regulations* which has the effect of removing the regulatory cap on shelter allowances is not reasonable as it inconsistent with the scheme of the *Act* as a whole. The decision of the Board is quashed and the decision of the Department of Community Services to deny G.(R.) an additional shelter allowance is upheld.

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