

SUPREME COURT OF NOVA SCOTIA

Citation: *N.V. v. Nova Scotia (Community Services)*, 2018 NSSC 5

Date: 2018-01-22

Docket: Hfx No. 458665

Registry: Halifax

Between:

N.V.

Applicant

v.

Minister of Community Services and
the Assistance Appeal Board

Respondents

LIBRARY HEADING

Restriction on Publication: [Regarding the identity of the Applicant]

Judge: The Honourable Justice Peter P. Rosinski

Heard: August 1, 2017, in Halifax, Nova Scotia

**Final Written
Submissions:** December 1, 2017

Written Decision: January 22, 2018

Subject: Judicial Review – Employment Support and Income Assistance Act (ESIAA) and Regulations – statutory interpretation

Summary: As a result of claimed domestic abuse and violence, Ms. V and her young daughter left the marriage relationship. She applied for social assistance, because her immigration status at that time did not permit her to work. Ms. V, a resident of Nova Scotia, and as a citizen of Russia, was in danger of deportation. At the time of her application she was in the Pre-Removal Risk Assessment (PPRA) process conducted by staff of Citizenship and Immigration Canada. Her deportation order

had therefore been stayed pending the PRRA outcome. Her application was refused because she did not provide “proof of citizenship” as required by Section 5(1)(a)(ix) of the ESIAA Regs. Department of Community Services staff determined, which was confirmed by the Assistance Appeal Board, that “proof of citizenship” meant “proof of Canadian citizenship”, and that that requirement was mandatory to be eligible for assistance.

Issues:

- (1) Given the “reasonableness” standard of review applicable to statutory interpretation by the Appeal Board, was the Board’s interpretation within a range of possible outcomes?
- (2) If the Board’s interpretation was not reasonable, what remedy is appropriate?

Result:

- (1) The Appeal Board’s interpretation was not reasonable. While “proof of citizenship” is an eligibility requirement, and should be understood as “proof of Canadian citizenship”, it must also include near – Canadian citizenship status, including Permanent Residents, holders of Temporary Residence Permits, refugee claimants, as well as others “legally entitled to remain in Canada”.
- (2) At the time of her application, Ms. V was “legally entitled to remain in Canada” and was a “resident” of Nova Scotia. Therefore, she should properly be considered as eligible for assistance on that basis. There were no other bases upon which to consider her ineligible for assistance. Therefore, the court quashed the order of the Appeal Board, and ordered the Minister to calculate her entitlement to assistance, retroactively from her application date to the date at which her eligibility ceased, if so.

The parties were ordered to bear their own costs given the novel nature of the issue.

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