

SUPREME COURT OF NOVA SCOTIA

Citation: *Northwoodcare Inc. v. Nova Scotia (Assessment)*, 2014 NSSC 167

Date: [2014-05-05]

Docket: Halifax No. 417019

Registry: Halifax

Between:

Northwoodcare Inc.

Applicant

and

Property Valuation Services Corporation, A Body Corporate Created by the
Property Valuation Services Corporation Act (Director of Assessment)

Respondent

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Judge: The Honourable Justice Pierre L. Muisse

Heard: November 26, 2013, in Halifax, Nova Scotia

**Final
Submissions:** December 13, 2013

Written Decision: May 5, 2014

Summary:

Northwoodcare, by way of agent, filed an appeal from its property assessment. Three months later, the agent received a notice confirming the assessment. The agent failed to file a notice of continued appeal within 14 days of receiving the notice as required by s. 68A of the *Assessment Act*. That was due to serious illness in his family and an extra heavy caseload resulting from a co-worker being

on maternity leave. He filed the notice 2 days late. The Assessment Appeal Tribunal took the position that the late filing resulted in the appeal being deemed abandoned and that it had no jurisdiction to hear the appeal. Northwoodcare made a written request to the Tribunal within 60 days from service of the notice of confirmation of assessment, asking it to extend the time for filing pursuant to s. 84 of the *Act*. The Tribunal declined jurisdiction to hear the request.

Issues:

1. Does the Tribunal have jurisdiction, pursuant to s. 84 of the *Act*, to extend the time to file notices of dissatisfaction and notices of continued appeal, within 60 days from service of notices of amended assessment and notices of confirmation of assessment under ss. 68 and 68A?
2. Should this Court, pursuant to s. 94, grant Northwoodcare an extension of time to file its Notice of Continued Appeal?
3. If the answer to questions 1 and 2 is “no”, does the delay by the Director in providing the Notice of Confirmation of Assessment amount to breach of procedural fairness warranting this Court permitting the late filing of the Notice of Continued Appeal?

Result:

1. Yes, the Tribunal does have jurisdiction to do so. Such an interpretation is consistent with: the wording of s. 84, including that it applies to steps in the prosecution of an appeal, viewed in the context of the *Act* as a whole; the object of the appeal provisions in the *Act*, including providing flexibility, fairness, accessibility, and transparency to improve the appeals process; the purpose for introducing the s. 68A requirement for a notice of continued appeal, which was largely to diminish no-shows at appeal hearings; and, a reasonable and just outcome.

2. No, the matter was remitted to the Tribunal for determination as it is in a better position to assess the factors relevant to exercise of discretion under s. 84 and determine scheduling if applicable.
3. Given the answer to Question 1, it was not necessary to address the 3rd Issue.