

SUPREME COURT OF NOVA SCOTIA

Citation: Thornton v. RBC General Insurance Company, 2014 NSSC 215

Date: 20140702

Docket: Hfx No. 290563

Registry: Halifax

Between:

John Thornton

Plaintiff

v.

RBC General Insurance Company/Compagnie
d'Assurance Generale RBC

Defendant

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Judge: The Honourable Justice Michael J. Wood

Heard: March 13, 2014 (in Chambers), in Halifax, Nova Scotia

Written Decision: July 2, 2014

Subject: Civil Procedure - Renewal of Notice of Action

Civil Procedure - Amendment of Pleadings

Limitation of Actions - Disability Insurance

Summary: Plaintiff made a claim for disability payments which was denied in 1998. In 2008, he commenced legal proceedings against insurer. In 2012, defendant served with notice of action. Plaintiff made motion to renew notice of action and statement of claim and to amend to replace named defendant with proper party. Defendant made motion for summary judgment on evidence.

Issue: Should renewal be granted?

Should amendment be permitted?

Should summary judgment be granted?

Result: Court concluded that in the absence of evidence showing that failure to serve due to inadvertence and that defendant not prejudiced, renewal not granted. The limitation period for the disability claim had expired. Court rejected argument that it was a rolling limitation which was refreshed each month by non-payment of benefits. Because of expired limitation motion to amend dismissed. Result of motions being dismissed was that plaintiff's action must fail and defendant's summary judgment motion granted.

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