

IN THE SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY

Citation: Rose (Re), 2014 NSSC 292

Date: August 1, 2014

Docket: 37826

Registry: Halifax

District of Nova Scotia
Division No. 1
Court No. 37826
Estate No. 51-1617375

In the Matter of the Bankruptcy of Kevin Paul Rose

Library Heading

Registrar: Richard W. Cregan, Q.C.

Heard: May 15, 2014, in Halifax, Nova Scotia

Subject: Surplus income under the *Bankruptcy and Insolvency Act*.

Summary: The bankrupt received a substantial disability award under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*. The Trustee claims that it should be considered as income under Section 68 of the *Bankruptcy and Insolvency Act* and that he should thus be required to pay half of it into his estate as surplus income. The bankrupt submits that the disability award is not in the nature of income, but is an exempt capital asset in that it was awarded as compensation for injuries to his person during service in the Forces which were aggravated by that service. Such is not income.

Result: It was held that the award was not income and thus not to be factored into the calculation of surplus income. However, to preserve the integrity of the bankruptcy system, he was required to pay the sum of \$ 5,000 as a condition of his discharge.