

Case No.

Vol. No.

ADAM JOHN SPENCER

PLAINTIFF

- and -

MANSOUR'S LIMITED, body corporate, CASEY REALTY LIMITED,
a body corporate and THE TOWN OF AMHERST, a body corporate

DEFENDANTS

Justice Walter R. E. Goodfellow

Halifax, Nova Scotia

File No. S. H. 145324

LIBRARY HEADING

Cite as: *Spencer v. Mansour's Ltd.*, 1999 NSSC 96

DATE HEARD: November 3rd, 1999

DECISION: November 12th, 1999

SUBJECT: LEGISLATION - Relationship Workers' Compensation N.S.
and N.B.

SUMMARY: Mr. Spencer, employed N. B. Purolator, in course of employment fell on ice the 6th of April, 1995 while making a delivery in Amherst. Mr. Spencer receives compensation in New Brunswick and commenced this action in Nova Scotia for general damages. He would have been barred from such if the accident occurred in New Brunswick.

Defendants, all employers under N.S. Act, which was amended the 1st of February, 1996 post this accident. Legislation did not clearly establish retroactivity and therefore, previous Act applied.

Determined historic tradeoff outlined *Pasiechynk v. Saskatchewan* (1997), 149 D.L.R. (4th) 577 (S.C.C.) applied *intra* provincial but not in these circumstances *inter* provincial. Application pursuant to C.P.R. 25.

DETERMINATION: Mr. Spencer entitled to continue his action. Extinguishment of his common-law right to sue should only be by clear legislative act.

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