

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Nova Scotia (Department of Community Services) v. P.S. 2006 NSSC 81

Date: 03/24/2006
Docket: S.H. No. 252888
Registry: Halifax

Between:

The Department of Community Services

Applicant

v.

P.S.

Respondent

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Judge: The Honourable Associate Chief Justice Deborah K. Smith

Heard: November 30, 2005 in Halifax, Nova Scotia

Subject: Application for an Order in the nature of *certiorari* quashing a decision of the Social Assistance Appeal Board.

Summary: The Respondent is a recipient of social assistance benefits under the *Employment Support and Income Assistance Act*. In the spring of 2005, the Respondent contacted her income assistance caseworker asking for assistance with the cost of an education program for her son as well as assistance with the cost of transportation to and from the program. She presented her application as a “special needs” request under the said *Act*. The Respondent’s request for funding was not approved and the Respondent eventually requested an appeal before the Social Assistance Appeal Board. The Board allowed the appeal but failed in its decision to set out the facts found by the Board and the reasons for its decision as required by the said *Act*.

Issue: Whether the Board’s failure to make findings of fact and failure to give reasons for its decision constituted a reversible error.

Result: Section 13 of the *Employment Support and Income Assistance Act* places an obligation on the Social Assistance Appeal Board to determine the facts of a case and decide, on the basis of those facts, whether the decision being appealed is in compliance with the said *Act* and its Regulations. Further, the same section provides that a decision of the Board shall contain the facts as found by the Board

and, *inter alia*, the reasons for the Board's decision.

On any standard of review, the failure of the Social Assistance Appeal Board to adequately state its findings of facts and to provide reasons for its decision in the face of a statutory obligation to do so is a reversible error. The application for an Order in the nature of *certiorari* quashing the decision of the Board was granted and the matter was remitted back to the Board for a rehearing before a differently constituted Board.

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