

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Chambers v. Axia Netmedia Corporation, 2004 NSSC 24

**Date:** 2004/01/29

**Docket:** S. H. No. 173374

**Registry:** Halifax

**Between:**

Neil Chambers

Plaintiff

v.

Axia Netmedia Corporation

Defendant

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Justice A. David MacAdam

**Heard:** December 16, 17, 18, 19 and 22, 2003 in Halifax

**Subject:** Contract - Constructive Dismissal - Mitigation

**Issue:** Whether the plaintiff was entitled to treat himself as being constructively dismissed, and if so, whether he failed to mitigate his loss.

**Summary:** The employer raised performance issues with the plaintiff and forwarded a letter placing him on probation and stipulating that he could be terminated at “any time” during the probation. The plaintiff advised he considered himself to be constructively dismissed. He decided to apply for a different type of work and did so by using the internet to contact potential employers. Held that placing the plaintiff on probation was not, in these circumstances, constructive dismissal. However, by adding the condition that he would be terminated at any time, this entitled the plaintiff to regard himself as being constructively dismissed. In the circumstances he was not required to continue working for the defendant while looking for new employment. However, the period of notice was reduced because he initially decided to look for work other than in the industry he had worked in with the defendant, and had limited his efforts to finding work to the use of the internet.

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