

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Amos & Andy v. Henneberry, 2003 NSSC 144

Date: 20030506
Docket: SH 179867
Registry: Halifax

Between:

Amos and Andy Fisheries Limited

Plaintiff

v.

Robert Henneberry

Respondent

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Judge: The Honourable Justice John D. Murphy

Heard: May 6th, 2003 in Halifax

Written Decision: July 4, 2003

Subject: Injunction - Defendant's claim for damages.

Summary: Plaintiff obtained injunction preventing Defendant from completing sale of fishing rights to which Plaintiff claimed entitlement. After an arbitrator determined rights belonged exclusively to Defendant, the Defendant sought damages against Plaintiff on basis that issuance of injunction caused Defendant to suffer damages resulting from lost sale.

Issue: Is Defendant entitled to damages resulting from injunction prohibiting sale of his fishing rights?

Result: Defendant's claim for damages dismissed. Defendant did not establish on the balance of probabilities that he suffered damages. There was no evidence that the fishing rights retained by the Defendant when the injunction stopped the sale were worth any less than the amount which the Defendant would have recovered if the enjoined sale had proceeded.

The Defendant's claim to recover costs incurred during arbitration was dismissed in the context of the present application because the issues in the arbitration did not necessarily arise as a result of the injunction.

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