

LEGAL ALERT

LABOUR & EMPLOYMENT LAW

SUPREME COURT OF CANADA DEFERS TO HUMAN RIGHTS COMMISSION DECISIONS AT EARLY STAGE OF PROCESS

In *Halifax Regional Municipality v. Nova Scotia Human Rights Commission*, a N.S. Acadian parent complained to the N.S. Human Rights Commission that the Municipality's French education funding arrangements discriminated against him and his children on the basis of their ethnic origin. The Commission investigated the complaint and decided to appoint a Board of Inquiry to conduct a public hearing and determine the complaint. The N.S. Supreme Court overturned the Commission's decision, but the N.S. Court of Appeal subsequently reinstated the Commission's decision to appoint a Board of Inquiry.

On March 16, 2012, the Supreme Court of Canada (SCC) confirmed the Court of Appeal's decision to reinstate the Commission's decision. In a ruling that "ensures [a] reviewing court gives due deference to the administrative decision-maker" (in this case, the N.S. Human Rights Commission), the SCC held:

- a human rights commission's decision to refer a complaint to a board of inquiry is administrative (one of screening and administration) and discretionary, not judicial (one of finally determining the complaint);
- a court reviewing such an administrative decision should consider whether the decision was "reasonable", that is, "whether there was any reasonable basis on the law or the evidence for the commission's decision to refer the complaint to a board of inquiry"; and
- courts reviewing such an administrative decision should "exercise restraint in intervening to prohibit a determination by the board of inquiry" as to whether a complaint was within the scope of the applicable human rights legislation.

The SCC concluded the N.S. Commission had a reasonable basis to decide an inquiry before a board of inquiry was warranted. [Click here](#) to read the SCC's decision in *Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*.

Practically, the SCC's decision will make it harder for a party to challenge in court the decision of a specialized administrative body. Watch here for our full analysis of this case to be published soon.

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Halifax, NS: 902.425.6500

Malcolm D. Boyle
Tara Erskine
Jack Graham QC
Kyle MacIsaac
John C. MacPherson QC
Ian C. Pickard
Brad Proctor
Katie Roebothan

Saint John, NB: 506.643.6500

Deborah Watton

St. John's, NL: 709.722.8735

Stephanie Hillier *
Chris King
Denis J. Mahoney
Blair Pritchett
Darren Stratton

Charlottetown, PE: 902.368.8473

John Hennessey, QC

Summerside, PE: 902.436.4851

Jonathan Greenan
Derek D. Key QC
Nancy Key QC

Moncton, NB: 506.857.8970

Crystal Gamble
Lucie LaBoissonnière *

mcinnescooper.com

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