

Date: 20141216
Docket: 14/29 & 14/18
Citation: *Eastern Regional Integrated Health Authority v. Association of
Registered Nurses of Newfoundland and Labrador*, 2014 NLCA 52

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN: EASTERN REGIONAL INTEGRATED
HEALTH AUTHORITY

APPELLANT/RESPONDENT
ON CROSS-APPEAL

AND: ASSOCIATION OF REGISTERED NURSES
OF NEWFOUNDLAND AND LABRADOR

RESPONDENT/APPELLANT
ON CROSS-APPEAL

AND: DARRELL BOONE

INTERVENOR

AND: NEWFOUNDLAND AND LABRADOR
ASSOCIATION OF SOCIAL WORKERS

INTENDED INTERVENOR

Coram: Hoegg J.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador
Trial Division (G) 201301G2913 (2013 NLTD(G)
164)

Application Heard: December 16, 2014

Decision Rendered: December 16, 2014

Memorandum of Disposition Filed: December 22, 2014

Counsel for the Appellant/Respondent on Cross-Appeal: Matthew G. Rowe
Counsel for the Respondent/Appellant on Cross-Appeal: Trudy L. Button
and Trent Skanes
Counsel for the Intended Intervenor: Thomas E. Williams Q.C.

MEMORANDUM OF DISPOSITION

Hoegg J.A.:

Introduction

[1] The Newfoundland and Labrador Association of Social Workers seeks, on its own behalf and as representative of the College of Licensed Practical Nurses of Newfoundland and Labrador, Newfoundland and Labrador College of Dietitians, Newfoundland and Labrador College of Physiotherapists, Newfoundland and Labrador Council of Health Professionals, Newfoundland and Labrador Occupational Therapy Board, Newfoundland and Labrador Pharmacy Board and Newfoundland and Labrador Psychology Board, intervenor status in the cross-appeal of the Association of Registered Nurses of Newfoundland and Labrador (ARNNL) in 2014 01H 0029 between Eastern Health Integrated Health Authority (Eastern Health) and ARNNL.

[2] The parties have consented to the Intended Intervenor's application.

The Law

[3] The granting of intervenor status is governed by Rule 7.05 of the *Rules of the Supreme Court, 1986*. It reads:

7.05. (1) Any person may, with leave of the court, intervene in a proceeding and become a party thereto if

(a) that person claims an interest in the subject matter of the proceeding, including any property seized or attached in the proceeding, whether as an incident to the relief claimed, enforcement of the order therein, or otherwise;

(b) that person's claim or defence and the proceeding have a question of law or fact in common; or

(c) that person has a right to intervene under a statute or rule.

(2) The application for leave to intervene shall be supported by an affidavit containing the grounds thereof and shall have attached thereto, when practical, a pleading setting forth the claim or defence for which intervention is sought.

(3) On the application, the Court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the parties to the proceeding and it may grant such order as it thinks just.

[4] The jurisprudence addressing Rule 7.05 has identified sufficiency of an Intended Intervenor's interest, whether the Intended Intervenor will make a useful contribution to the proceedings, whether its participation will cause undue delay, and whether its participation will be burdensome, expensive or otherwise prejudicial to the parties as factors for consideration in determining Rule 7.05 applications. (See *Warford v. Weir's Construction Limited*, 2012 NLCA 37, 323 Nfld. & P.E.I.R. 174, *Forsey v. Eastern Regional Health Authority*, 2007 NLTD 101, 267 Nfld. & P.E.I.R. 19 and *Elton Estate v. Elton*, 2009 NLCA 34, 287 Nfld. & P.E.I.R. 46.) Whether public law issues are involved is also a factor for consideration (*Warford*, paragraph 8).

[5] The Newfoundland and Labrador Association of Social Workers and the other bodies it represents are creatures of statute which exist to serve and protect the public interest. As such, they are responsible for maintaining standards of professional conduct, knowledge, skill and competency of their members. They maintain, and I accept, that the timely, cost effective, and complete exercise of their statutory mandate could be affected by the question of law to be determined in the within appeal and cross-appeal. They also maintain that their interest in the within proceeding is unique, in that they are much smaller bodies than ARNNL, and the impact of the appeal court's decision could be of greater significance for them than it would be for ARNNL.

Analysis

[6] The appeal and cross-appeal involve public law issues respecting the maintenance and enforcement of professional standards for the purpose of protecting the public. In this respect the Intended Intervenor's participation in the appeal and cross-appeal could benefit the court and society at large. While this participation will doubtless take some time, this time will be

offset by the anticipated useful contribution of the Intended Intervenor, and in any event will not cause undue delay. As well, no party has asserted that it will suffer prejudice as a result of the granting of intervenor status to the Intended Intervenor, and none is apparent to me.

[7] Accordingly, I am satisfied that the Intended Intervenor's interest in the subject matter of the within proceeding is sufficient and useful, and that it will not unduly delay the appeal and cross-appeal or burden the parties. The criteria of Rule 7.05 as interpreted in the jurisprudence are therefore met.

[8] The Intended Intervenor has not asserted any interest in the incident which gave rise to ARNNL's suit against Eastern Health. It shall therefore only be permitted to make submissions on the legal issues and policy considerations raised in the appeal and cross-appeal, unless and until otherwise determined by this Court.

[9] Irrespective of the outcome of the appeals, the Intended Intervenor shall not seek its costs in relation to this application or the appeal and cross-appeal.

[10] There is no order as to costs relating to this application.

L. R. Hoegg J.A.