

**HUMAN RIGHTS**

Judicial review of Canadian Human Rights Commission decision dismissing applicant's complaint alleging that respondent discriminating against him, family — Applicant's house occupied by son, daughter-in-law — Applicant meeting with respondent's officer to discuss line of credit increase to complete renovations to house — Applicant's son obtaining permission by Health Canada to grow marijuana for medicinal purposes — Intending to use renovated space to accommodate plants — Appraiser informing respondent of family's intent to grow marijuana — Respondent denying applicant increase to line of credit, demanding full repayment of mortgage — Stating that applicant breaching terms, conditions of mortgage agreement — Applicant stating in complaint to Commission that son, daughter-in-law prescribed marijuana for treatment of their disabilities — Commission deciding not to deal with complaint pursuant human rights investigator's recommendation, *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (Act), s. 41(1)(c) because respondent's decision to call in mortgage not based on prohibited ground of discrimination — Main issue whether Commission breaching its duty of procedural fairness by failing to conduct neutral, thorough investigation — Essential question to address with respect to Commission's investigation whether investigator overlooking or failing to investigate "obviously crucial evidence" — Commission's decision unreasonable, procedurally unfair — Investigator not meeting obviously crucial test — Should have fully investigated respondent's policy on "grow-ops" in determining whether it had reasonable explanation for calling in mortgage — Failure to assess, review this policy undermining thoroughness of investigation, fairness of process — Commission's decision to accept investigator's recommendation unreasonable — Commission required to determine whether reasonable basis in evidence for proceeding to inquiry before Tribunal — Commission's analysis essentially ignoring evidence — Emails showing respondent considering fact that applicant's son intending to use property as grow-op when deciding to refuse increase to line of credit, call in mortgage — Despite this evidence, investigator's report finding that evidence gathered not indicating that respondent calling in complainant's mortgage based on son's disability, particular form of treatment for that disability — Son's intention to build bigger, better grow-op possible factor in respondent's decision — Case herein not one in which uncontested evidence on record is so conclusive that there is only one possible conclusion — Applicant's request that matter be sent back to Commission for re-determination, with direction that Commission refer applicant's complaint to inquiry before Tribunal, not appropriate in circumstances herein — Commission's authority under Act, s. 44(3) to refer complaint to Tribunal or to dismiss it purely discretionary — Not Court's function to make that decision for Commission — Commission's decision set aside, matter returned to Commission for redetermination, further investigation — Application allowed.

MCILVENNA V. BANK OF NOVA SCOTIA (SCOTIABANK) (T-1176-16, 2017 FC 699, Boswell J., judgment dated July 19, 2017, 33 pp.)