
Citation : *Estabrooks v. New-Brunswick (Director of Consumer Affairs)*, 2016 NBFCST 10

PROVINCE OF NEW-BRUNSWICK
FINANCIAL AND CONSUMER SERVICES TRIBUNAL
IN THE MATTER OF THE *REAL ESTATE AGENTS ACT*, S.N.B. 2011, c. 215

Date: 2016-10-05
Docket: CA-001-2016

BETWEEN :

Larry Nicholas Estabrooks,

Applicant,

- and -

Director of Consumer Affairs,

Respondent.

ORDER

WHEREAS on September 16, 2016, the Director of Consumer Affairs filed a motion requesting:

- a) that the current appeal from the July 12, 2016 decision of the Director of Consumer Affairs under subsection 10(6) of the *Real Estate Agents Act* be conducted on the basis of the Record with the ability to adduce new evidence with leave of the Panel, if required; and
- b) that the appellate review of the decision of the Director of Consumer Affairs be conducted based upon an appropriate standard of review;

AND WHEREAS at the hearing of this motion on September 30, 2016, we heard from the solicitor for the Director of Consumer Affairs and Mr. Estabrooks;

IT IS HEREBY ORDERED THAT:

1. The appeal in this matter will proceed as a hybrid appeal as follows:
 - a) The appeal will proceed to an oral hearing;
 - b) The Record constitutes evidence on the appeal;
 - c) The parties can present evidence in addition to that contained in the Record in accordance with Part 7 of Local Rule 15-501 *Proceedings before the Tribunal* and its

admissibility will be determined in accordance with subsection 38(6) of the *Financial and Consumer Services Commission Act*;

- d) The parties may call witnesses to testify at the hearing of the appeal in accordance with Part 8 of Local Rule 15-501 *Proceedings before the Tribunal*;
- e) Leave of the panel will not be required to call witnesses or present additional evidence;
- f) No deference will be afforded to the decision of the Director of Consumer Affairs; and
- g) The decision of the Director of Consumer Affairs will be reviewed for correctness.

2. Our reasons for decision will follow.

DATED this 5th day of October, 2016.

“Original signed by”

Christine M. Bernard

Registrar

Signed for panel members John M. Hanson, Q.C., Raoul Boudreau and Gerry Legere pursuant to subsection 40(3) of the *Financial and Consumer Services Commission Act*