

Summary of Southern Shore Waste Management Inc. versus Bob Bassett
Heard June 5, 2014 in Small Claims Court, St. John's, NL - Court File No. 0112C00405

This case was heard in Small Claims court on June 5, 2014. In dispute was the responsibility of the property owner to pay for three (3) years of prior fees for the provision of waste disposal services by the Southern Shore Waste Management Inc. on behalf of the local service district in which the Defendant's property is located. The Southern Shore South Waste Management Inc. was a not-for-profit established by the municipalities and local service districts from Bay Bulls to St. Shott's for the purposes of contracting for the provision of waste management services and the collection of fees.

The Defendant's Claim:

- The property owner states he was not aware of the service; therefore, he is not responsible for three years of fees and interest;
- The property owner uses the property on a seasonal basis only; and,
- The property owner did not receive invoices as they were mailed to an incorrect address.

The Learned Trial Judge's Findings:

In granting judgment to the Plaintiff, the Learned Trial Judge found as a fact that the Defendant has a legal obligation to pay.

- "But regardless of whether you were notified or not, there is still a legal obligation to pay."
- "All I can do is apply the law and the law requires that you have to pay."

Legislation in Support of the Decision:

The authority to charge fees for the provision of service is granted under the *Statutes of Newfoundland and Labrador, 2012; Chapter R-8.1 – An Act Respecting Regional Service Boards in the Province:*

19. *The minister may, by regulation, prescribe the powers that a board may have for the region or a portion of the region governed by the board, including powers regarding*

(a) the construction and operation of regional water supply systems, regional sewage disposal systems, regional storm drainage systems, regional waste management systems and including a facility designated in the regulations as a regional facility;

24. *(1) The expenses of a board may be defrayed out of revenue generated by the assessment of fees from*

(a) municipal authorities governed by that board or persons who occupy real property, either as owners or tenants of the property, in municipal authorities governed by that board;

(b) persons who occupy real property, either as owners or tenants of the property, in unincorporated areas governed by that board; and

(c) users of facilities and services.

Eastern Regional Service Board Regulations, Newfoundland and Labrador Regulations, 2013, under the *Regional Service Boards Act*:

Prescribed services

3. *The board has the power to construct, acquire, maintain and operate solid waste disposal sites and solid waste management facilities and systems within the eastern region.*

User fees

4. *(1) The board has the power to charge user fees to a municipality, local service district or unincorporated area in the eastern region as constituted by section 2 of the Eastern Regional Service Board Order, or another municipality, local service district, unincorporated area or other user of a facility or service provided by the board.*

(2) An amount owing under subsection (1) is a debt due to the board and the board may recover it by civil action in a court.

Conclusion

- **The fees for the collection of waste are valid for the property.**
- **The property owner does not have “to use” the service to be a recipient of the service.**
- **The fees are valid even for seasonal property owners who do not reside in the community and who do not avail of the service.**
- **The fees are valid from the time that the service was started for the property.**