NS decision in plain language

**Update**

This is an update on a human rights case in Nova Scotia. There has been a big victory for people with disabilities in that province.

**Background and decision**

This was a human rights case that began in 2015. It was about discrimination. ‘Discrimination’ happens when people are not treated fairly and equally. Joseph Delaney, Shelia Livingstone and Beth MacLean were discriminated against. They were forced to live in the Nova Scotia Psychiatric Hospital. They lived in a locked and fenced unit called ‘Emerald Hall.’ All three were able to live in the community. They all qualified for programs to live in the community. But they remained on waitlists for many years.

In 2019, the case was decided. The first part of the decision said that the three people did experience discrimination. They should not have been forced to keep living in the institution. The second part of the decision said that this does not mean that everybody in this situation is being discriminated against. It said it does not mean that the system discriminates against people. This part said that each person’s case must be looked at separately.

**Appeal of the decision**

The disability community did not agree with the second part of this decision. As a group, Inclusion Canada, People First Canada, and the Council of Canadians with Disabilities appealed the decision. It went to the Nova Scotia Court of Appeal.

**Result of the appeal**

The group won the appeal. The Court of Appeal found that Joseph Delaney, Shelia Livingstone and Beth MacLean were discriminated against. The court also found that other people might be discriminated against in the same way. They found that people might be treated unfairly and unequally in the systems they are in.

The result of the appeal sends a strong message. Governments and systems cannot leave out people with disabilities. They cannot put them in institutions. They cannot leave them on waitlists for years.

Inclusion Canada, People First Canada, and the Council of Canadians with Disabilities have asked the Nova Scotia government to recognize the decision and work to fix the situation. This includes removing barriers and working with people with disabilities and disability rights groups.

**Note**

Sheila Livingstone died before the human rights case started. Beth MacLean recently passed away.

ORIGINAL EMAIL Below

Hello All,

I am writing today with excellent news and a significant victory for persons with disabilities in Nova Scotia.

You may recall that in 2019 Nova Scotia’s Human Rights Commission found that Joseph Delaney, Sheila Livingstone, and Beth MacLean had experienced enduring discrimination while housed long-term in a locked, fenced unit of the Nova Scotia Psychiatric Hospital known as Emerald Hall. The three had qualified for community arrangements, but remained on waitlists. The 2019 decision acknowledged that the three each faced prejudice but did not go so far as to claim that the discrimination was part of a pattern or systemic in nature.

Inclusion Canada, People First Canada, and the Council of Canadians with Disabilities were not satisfied with the Human Rights Commission’s decision. We knew that these were not isolated incidents, and that the court needed to look at the big picture. People with disabilities across Nova Scotia are being institutionalized because they don’t have access to the support they need to live in community. So when the decision was challenged, we intervened as a coalition at Nova Scotia’s Court of Appeal.

We won! Today, the Nova Scotia Court of Appeal found that the Delaney, Livingstone, and MacLean were discriminated against as individuals and that the discrimination might just be systemic. The Human Rights Commission now must determine if the systemic discrimination was justifiable, and if not, what systemic remedies would be best.

The decision sends a strong message to governments across Canada that they cannot provide people with disabilities social assistance that is lesser-than. It is not legally justifiable to exclude people with disabilities, relegate them to institutions, or leave them on waiting lists for decades.

In a press release which I have attached to this email, our coalition has requested that the Nova Scotia Government stop fighting persons with disabilities in courts, to acknowledge to systemic discrimination, and to remove barriers to inclusion for all Nova Scotians with intellectual disabilities.

The Nova Scotia Government should stop delaying, disrupting and denying social inclusion and community living to persons with disabilities receiving social assistance in Nova Scotia. Instead, they should work with people with disabilities and disability rights organizations to solve the problem.

**PRESS RELEASE: SIGNIFICANT VICTORY FOR NOVA SCOTIANS WITH INTELLECTUAL DISABILITIES**

[https://inclusioncanada.ca/2021/10/06/press-release-significant-victory-for-nova-scotians-with-intellectual-disabilities/](https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Finclusioncanada.ca%2F2021%2F10%2F06%2Fpress-release-significant-victory-for-nova-scotians-with-intellectual-disabilities%2F&data=04%7C01%7Csfletcher%40peoplefirstofcanada.ca%7C8678cc0e43b349d8d8ce08d989ba6314%7Ca66dd3b8a05d4763857aca15150029d9%7C1%7C0%7C637692256476478425%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=VNvA9MZxOx0wz5jntXcM8ry%2FzVLzuSbeNgNDGy4CENk%3D&reserved=0)