

COURT OF APPEAL FOR ONTARIO

CITATION: Baker v. Navistar Canada Inc., 2014 ONCA 115  
DATE: 20140211  
DOCKET: C57138

Doherty, Lauwers and Strathy JJ.A.

BETWEEN

Cathy Baker and Joe Lucier

Plaintiffs (Appellants)

and

Navistar Canada Inc.

Defendant (Respondent)

L.N. Gottheil and Anthony F. Dale, for the plaintiffs (appellants)

John C. Field and Lauri A. Reesor, for the defendant (respondent)

Heard and released orally: February 7, 2014

On appeal from the order of Justice Richard Gates of the Superior Court of Justice, dated May 9, 2013.

ENDORSEMENT

[1] We are in substantial agreement with the reasons of the motion judge.

[2] We called on the respondent on only one issue – the claim as it relates to benefits under the Employment Standards Act (“ESA”).

[3] With respect to the *ESA*-related claim, we read that claim as advanced on the same basis as the other claims, that is, that on the expiry of the collective agreement, individual contracts of employment sprang up between the workers and their employer. In our view, that claim is no more tenable on the facts as pleaded or as a matter of law than are the other claims advanced, e.g. the reasonable notice claim.

[4] The motion judge was not asked to determine what, if any, entitlement the plaintiffs had under the *ESA*. No one suggests that the motion judge made any such determination.

[5] The appeal is dismissed.

[6] The parties are agreed that the respondent, the successful party, should have its costs in the amount of \$7,500, inclusive of disbursements and relevant taxes.

Doherty JA  
Plawus JA  
G. R. Gauthier JA.