

**A POOR REFERENCE GIVEN BY A FORMER EMPLOYER DOES NOT NECESSARILY
AMOUNT TO SLANDER**

Miller v. Bank of Nova Scotia, (2002-12-09), 1670/01 (Ont.Sup.J.)

The Plaintiff Betsy Miller (“Miller”), was employed with the defendant Bank of Nova Scotia (“BNS”) and under the supervision of the defendant Nadia Yammine (“Yammine”). The Plaintiff was hired to work both day and evening hours.

Nevertheless, the Plaintiff developed concerns about the evening hours she was required to work. Yammine told the Plaintiff that she was hired to work evening hours but that a possible solution could be worked out after the busy RRSP season. Prior to the conclusion of the RRSP season, the Plaintiff was offered a position at the Canadian Imperial Bank of Commerce (“CIBC”). The position did not involve working evening hours. However, CIBC’s offer was conditional upon the receipt of satisfactory reference checks including one from the Plaintiff’s most recent employer. The offer letter stated:

“It is recommended that you NOT RESIGN from any other secure employment until such time as the results of the reference checks have been received and reviewed”.

Nonetheless, the Plaintiff resigned from the BNS prior to CIBC’s review of her references. The Plaintiff resigned by a mailed letter of resignation to Yammine and failed to provide two weeks notice as per her contract of employment. Unknown to Yammine, the Plaintiff designated Yammine as her reference from her most recent employer.

When the CIBC’s agent contacted Yammine, Yammine told the agent that the Plaintiff had acted irresponsibly by not resigning in person and failing to give the BNS two weeks notice in accordance with her contract of employment. CIBC immediately terminated the Plaintiff’s employment.

The Ontario Superior Court of Justice ruled that Yammine’s comments were justified and not defamatory of the Plaintiff. The Court further ruled that Yammine’s comments were spoken on an occasion of qualified privilege. Although the defence of qualified privilege may be defeated if the defendant acts with malice, the court was not satisfied that Yammine acted with malice. Accordingly, the action was dismissed.