

NOVA SCOTIA COURT OF APPEAL

Citation: *Murphy (Layton) v. Murphy*, 2013 NSCA 144

Date: 20131206

Docket: CA 415259

Registry: Halifax

Between:

Sandra Christine Murphy (Layton)

Appellant

v.

John Killam Murphy

Respondent

Judges: Justice Joel E. Fichaud

Appeal Heard: November 25, 2013, in Halifax, Nova Scotia

Subject: Contempt orders

Summary: The parties had divorced. The Corollary Relief Order gave the matrimonial home to Ms. Layton and two boats to Mr. Murphy. Mr. Murphy, who worked overseas, left the boats on Ms. Layton's property after the divorce proceedings. Ms. Layton told Mr. Murphy to remove the boats, before a specified deadline, failing which she would consider the boats to be abandoned. Mr. Murphy made efforts to remove the boats. But the parties disputed whether Mr. Murphy was entitled to accessories for the boats, namely motors and trailers. Ms. Layton threatened criminal charges if he tried to remove the motors and trailers. The parties could not resolve that dispute and, meanwhile, the boats, motors and trailers remained on the property. Then Ms. Layton sold, or bartered, one of the boats and moved the other to an undisclosed location. Mr. Murphy moved for a contempt order. The judge, who had previously heard the divorce proceeding, held that Ms. Layton was in contempt, and ordered her to pay a penalty of \$16,500 – the value of the two boats – to be credited

against Mr. Murphy's ongoing spousal support. Ms. Layton appealed to the Court of Appeal.

Issues: Did the judge err in his finding of contempt or in his choice of penalty?

Result: The Court of Appeal dismissed the appeal. The judge had found that Ms. Layton's sale or barter of one boat, and movement of the other to a hidden location breached the term of the Corollary Relief Order that Mr. Murphy was entitled to possession of the boats, and that Ms. Layton intended to deprive Mr. Layton of possession. The penalty was a permissible option under *Civil Procedure Rule 89.13*. The judge committed no error of law respecting the principles of contempt, made no palpable and overriding error of fact and the exercise of his discretion did not result in a patent injustice.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 11 pages.