

IN THE FAMILY COURT OF NOVA SCOTIA
Citation: A. v. B. , 2012 NSFC 9

Date: 2012 03 22
Docket: FLBMCA-074974
Registry: Bridgewater

Between:

A.

Applicant

v.

B.

Respondent

Judge: The Honourable Judge William J. Dyer

Heard: January 26, 2012, at Bridgewater, Nova Scotia

**Release of oral decision;
and release of written
Supplemental Decision:** April 27, 2012

Revised Decision: The text of the decision has been revised to protect the identity of certain parties. This revised version is released on November 12, 2013

Counsel: A., on his own behalf
David St. Clair Bond, for the Respondent

Part 1

By the Court:

[1] In mid April 2011, A.(the husband) started proceedings against his spouse B.(the wife) for maintenance pursuant to section 3 of the **Maintenance and Custody Act (MCA)**.

[2] The husband had the benefit of legal representation at the outset but represented himself at the hearing, after it was determined that he no longer qualified for legal aid representation. The wife has had the benefit of legal counsel throughout.

Background

[3] Thrice divorced and once widowed, the 71 year old husband has considerable life experience. The 66 year old wife (although only once divorced before marrying the husband) is similarly experienced in the ways of the world.

[4] Internet social media sites are not the exclusive domain for the young of age. Often attracted are the young of heart.

[5] So it was that these individuals met through an internet dating service in early April, 2007. He was living in Ontario; she was living in rural Nova Scotia. He visited her home; she visited his.

[6] Apparently, there was mutual attraction and affection. Undoubtedly, each was looking for companionship, for someone with similar interests, and for a spouse to spend the rest of her/his life with. With hindsight, they now believe they were seeing each other, and their future together, through rose-coloured glasses.

[7] A decision was quickly made to live together. The husband picked up stakes and moved to the wife's residence in the Maritimes. The husband left behind most of his household goods and furnishings, and he underwrote the cost of his move without contribution from her.

[8] Experience is a hard teacher. So, even though the decision to cohabit was speedy, they gave their relationship some time to mature. They waited over a year before they decided to marry in mid September, 2008.

[9] When they decided to cohabit and later decided to marry, the parties did not sign a domestic contract. With hindsight, that would have been prudent.

[10] Neither party said much about their relationship or circumstances over the next couple of years. However, there was an incident of alleged domestic violence and drunkenness, instigated by the husband, in the Fall of 2010 which precipitated the parties' separation. The husband was charged with a single count of uttering a threat against the wife. It was withdrawn by the Crown when the husband agreed to enter into a one year Peace Bond which included terms that he would have no contact with the wife and stay away from her residence. The Peace Bond expired without any further significant incidents.

[11] After some instability in his residence because of his financial plight, the husband eventually secured an apartment in the local area where he has lived continuously since May, 2011. He lives alone, with a pet dog.

[12] During courtroom testimony, it was revealed that neither party started legal action under the **Matrimonial Property Act (MPA)** for an accounting of, or for a division of matrimonial assets and debts. What, if any, legal interest the husband may have in her assets remains to be seen.

[13] The debt side of things has been rendered somewhat moot by the husband's personal bankruptcy. However, there are ongoing disputes about valuable collectibles which are still under the wife's roof and which did not get swept up in the bankruptcy. The husband is pursuing this in another forum.

The Husband's Case

[14] The husband's evidence was that upon relocation, he routinely contributed \$400 monthly towards the couple's ordinary expenses and also purchased most, if not all, of the groceries. However, he conceded the wife did not routinely share with him the details or particulars of the bills he was helping to pay.

[15] According to the husband, he had no substantial debts when the parties met in 2007. However, by April, 2009 he had incurred debts totalling at least \$30,000. Most of the debt was tied to a bank credit card in his name. This prompted him to make assignment in personal bankruptcy.

[16] The self-represented husband did not provide copies of any of his bankruptcy documents. Therefore, it is impossible to determine with any confidence who the creditors were at the time of the assignment, the amounts owing to each, what purchases the debts were related to, etcetera. This is not without significance because the thrust of his evidence was that a large portion of his debt load was connected to expenditures made for the benefit of the wife. In broad terms, those expenditures were said to have included (among other things) two vacation trips to England, a vacation trip to Newfoundland and Labrador, a vacation trip to Ontario, the purchase of expensive collectibles, and dining out - “a lot of dining out!”, in his words.

[17] The husband was carefully cross-examined, but weathered the experience rather well. Perhaps this is not surprising. He was a career police officer who achieved the rank of Detective Sergeant with an urban police force in Ontario before resigning at middle age. He went on to hold various other positions before retiring due to health problems.

The Husband’s Financial Situation

[18] The husband’s income tax Summary for 2008 shows a total income of \$19,284. The (two) Summaries for 2009 span the bankruptcy and post-bankruptcy time frame. The latter show total income of about \$17,233 made up of Old Age Security Pension income, Canada Pension Benefits, and other pension and superannuation income. All of his tax refunds were taken by his Trustee for the benefit of creditors.

[19] The husband’s 2010 total income was \$17,753. This included some employment income, but did not include all other income. The husband’s current income is significantly less now than it was previously. Here is the background.

[20] In 2009, the wife helped the husband obtain a job with an area resident. His job was to drive the resident to a kidney dialysis clinic at Halifax, three times weekly. He received \$15 per hour initially, but later received \$100 daily for this service. The patient paid for gas and supplied a vehicle in addition to the daily rate. If the husband had unexpected waiting times in the city, he received additional income. The wife postulated his additional income was about \$300 weekly. He did not seriously dispute the estimate. (That would push his actual income into the \$32,000 range.)

[21] It is undisputed that the patient eventually did not require the service to Halifax. The husband's job and income from this source stopped in or about October, 2011. Since then, the husband has not had the benefit of any extra or additional income. He relies on his various pension benefits to pay ordinary living expenses.

[22] By the time of the hearing, the husband's total income from all sources was said to be about \$1,500 monthly (\$18,000 annually). His 2011 return has not been filed.

[23] The husband confirmed that when he made his bankruptcy assignment, his monthly payments towards household expenses were reduced (by him) to \$200. He redirected his money to his Trustee, apparently at the Trustee's request. Upon discharge from bankruptcy about nine months later, the husband said he made at least one payment in the original range toward household expenses, and he insisted that he continued during the bankruptcy to pay about \$400 monthly toward the couple's groceries.

[24] The husband presented no proof of the significant expenditures he said were made for mutual travel, vacations, and collectibles which he said triggered the bankruptcy. But, he reiterated that the wife knew all along that he was charging most, if not all, of the expenses to his main credit card. He denied that she contributed to those expenses (as later alleged by her).

[25] The husband presented a household budget in which he purported to have total expenses exceeding \$3,000 monthly against income of about half of that amount. There were the usual challenges to the reasonableness of several expenses (eg. food, motor vehicle expenses, and the like). However, the allocation of about

\$550 monthly for cigarettes stood out like a sore thumb. In fairness, the husband admitted that he is addicted to tobacco/cigarettes and that he knows he should not be smoking. He volunteered that the wife was well aware of his smoking habit when they met. Indeed, she too is a cigarette smoker.

[26] The husband disclosed a wide spectrum of health problems including Type II Diabetes, chronic obstructive pulmonary disease, back and shoulder problems, high blood pressure, osteoarthritis, high cholesterol, and anxiety. He has had bypass heart surgery. The husband's evidence was that when they met the wife was aware of his state of health and several conditions which were existing and known. Others developed or were diagnosed before the separation.

[27] There was evidence surrounding the personal effects which were brought from Ontario and other property still at the wife's home, etcetera. I do not intend to devote much attention to this as there are other remedies available to the parties to sort out the division of their matrimonial assets and remaining debts.

[28] Asked how he is able to meet his expenses from a severely reduced income, the husband's evidence was that he is running a bank overdraft which is consistently in the range of \$500 monthly. Asked to contrast his current income with that which he enjoyed when he met the wife, the husband estimated his 2007 income to have been in the range of \$1,100 monthly. The husband stressed his limited income was known to the wife from the outset.

[29] The husband conceded that he had been able to live alone and to meet his basic personal needs on a limited income before the parties met. He added that in 2007 (when he met the wife) he was going to apply for an income supplement. But, this was not pursued because of his new living arrangements with her in Nova Scotia. He suggested that decision cost him something in the range of \$240 monthly (net).

[30] The husband acknowledged that he has recently reapplied for supplemental benefits, but he was unable to state the precise amounts should his application be approved. A reasonable estimate, I find would be in the \$240 monthly or higher range that the evidence suggests pertained in 2007.

[31] When asked if he had ever sought spousal support from any of his former wives, the husband said “no”.

[32] The husband has two adult children - one in Ontario and one in British Columbia. Neither of those children are contributing to his support at this time. He agreed that he really has no ties to Nova Scotia at this time; and he is uncertain what the future holds for him. His current apartment lease ends in April 2012.

[33] The husband agreed that he must make efforts to reduce his expenses. He stated that his dog has medical problems and that a considerable amount of his income is devoted to food, medications, etcetera for the pet. He drives a 2003 motor vehicle with more than 110,000 kilometres on it. He is looking for ways to supplement his income, but at his age and with his medical problems, the prospects are not good.

[34] The husband confirmed that each spouse maintained her/his own bank accounts and that the wife did not share with him very many details about her own finances.

[35] As the relationship deteriorated in mid to late 2010, the husband said “we seemed to be boarding together”, and he conceded that there were virtually no communications regarding their personal and mutual financial issues. The husband said that he provided the wife with none of his banking or other financial records, including those related to his personal bankruptcy; but he insisted he consulted the wife before making his assignment and that she effectively encouraged it.

[36] Before completing his evidence, the husband admitted that in the post-bankruptcy period he has managed to secure a new credit card which is “maxed out” at \$2,000. He said those expenses relate entirely to meeting his daily needs. Asked to quantify his re-location expenses back in 2007, he estimated them at just under \$2,000.

The Wife’s Case

[37] In an affidavit, the wife wrote that her husband was “financially independent” when they first met, albeit on a modest income of only about \$1,700

monthly, to her recollection. She certainly knew the husband was retired when they met.

[38] Throughout the relevant time, the wife has been employed as a Licensed Practical Nurse at a facility in Halifax. She said she has been logging about 60 hours per week through employment - at the facility and elsewhere.

[39] The wife grudgingly acknowledged that the husband contributed to household expenses at the rate of \$400 monthly but noted the payments were reduced after about a year when the husband went into bankruptcy. She stated she did not realize that he was insolvent until he finally informed her of the situation. When she discovered that he had run up his credit card balance to somewhere between \$30,000 and \$40,000, she summarily concluded that “he brought it into our marriage but did not disclose it”.

[40] Despite the wife’s strong belief, neither she nor the husband corroborated their respective versions with any relevant financial records, the bulk of which I find could have been secured without great difficulty from the bankruptcy file and/or Trustee. In an odd little twist, the wife’s evidence was that she attended with the husband at the Trustee’s office and actually paid some of the Trustee’s fees to commence the proceedings - but she denied the husband’s assertion that she encouraged bankruptcy as an expeditious route to resolve the financial dilemma.

[41] The wife wrote that she needs to continue working because of her own ongoing financial needs and lifestyle. She does not intend to continue to work at her occupation indefinitely, but was nonspecific as to when she might retire. She volunteered when she decides to stop working it will be necessary for her to sell her home; and she speculated that she will need at least \$900 monthly to meet basic needs.

[42] The wife’s stated position is that her spouse was “financially independent” throughout their cohabitation and marriage, and that since the date of separation he was, or should have been, capable of supporting himself from his own income sources. She added that he should be denied spousal support based on the marriage’s short duration.

[43] In testimony, the wife admitted that both spouses spent large amounts of money on collectibles. Depending on whose evidence is believed, the total value of their purchases during their co-habitation and marriage ranged between \$10,000 and \$20,000. However, the wife insisted that each of them bought what they wanted from their own resources; and she resisted any suggestion that any of the admittedly valuable items still in her possession were purchased with the husband's money or on his credit card. She introduced some proof of internet purchases ostensibly made in her own name. From the limited evidence, it was impossible to determine whether her records were an accurate or complete reflection of all of the relevant purchases and, in any case, the values demonstrated fell far short of the total values both spouses discussed in their evidence. And, as mentioned, the husband did not introduce any records on the subject.

[44] As the debate raged back and forth about the extent of the husband's financial contributions to household expenses and to groceries, the wife acknowledged that she did keep records at one stage but "quit keeping a record" for reasons she did not explain. Unfortunately, the result is that her evidence was no better than his on the expenses topic.

[45] On cross-examination, the wife confirmed that she knew about the husband's previous marriages, and that he had no significant assets with the exception of his collectibles. She admitted that she was aware of his medical circumstances, including by-pass heart surgery and diabetes. And she confirmed some appreciation of other conditions and problems he later developed.

[46] Asked why they married, the wife hesitatingly confirmed that she thought that she loved him at the time and that she wanted companionship. She attributed the demise of the marriage to his increasingly heavy drinking. Suspicions also arose when she observed he was not wearing his wedding ring and that he was spending an inordinate amount of time on the internet. The last straw was the incident at the home in October 2010, discussed elsewhere. Soon after the separation, the wife was notified of the husband's support claim. She acknowledged that she has paid him nothing.

The Wife's Financial Situation

[47] Should there be entitlement, the wife does not dispute ability to pay. Her tax summaries disclose the following annual incomes: 2008 - \$31,214; 2009 - \$39,298; 2010 - \$54,438. Included in her income are old age security benefits. Significantly, not included for income tax purposes has been at least another \$800 monthly cash income from nursing work done for several years outside her regular employment.

[48] There is nothing exceptional in the wife's expense budget. Not surprisingly, two of the major monthly expense items are her mortgage and taxes, plus fire insurance. She did not put a market value on her home or disclose the balance of her mortgage. She did not disclose her current assets or liabilities in any precise way.

Discussion/Decision

[49] Neither spouse has started proceedings under the **Divorce Act** to end the marriage. Following the separation, neither spouse sought a formal accounting for, or a division of, their matrimonial assets and debts. Neither offered an explanation for this inaction. The latter is not without significance because the husband's position is cloaked in broad assertions that his financial plight and bankruptcy were largely connected to expenditures made directly or indirectly for the wife's benefit. That those debts have now been extinguished does not render the history irrelevant.

[50] The wife's plea that she was duped in 2007 by the husband's failure to disclose his true financial situation is somewhat intriguing. However, the reality is that neither of them provided sufficient evidence for the court to get to the bottom of things.

[51] Such unresolved questions reinforce the preferences of most Family and Superior Court judges that **MPA** matters be resolved by negotiation or by court decision before spousal support is finalized. In most cases, the parties' past, present and future capital positions are relevant to entitlement, and also relevant to quantum and duration, if there is an award.

[52] In the present case, the unresolved questions about assets and debts are something of a distraction when it comes to the first legal issue: entitlement.

[53] When staking a defence in the ground of non-entitlement, counsel for the wife did not directly refer to the principled analysis suggested by the Supreme Court of Canada in **Bracklow v. Bracklow** [1999] 1 S.C.R. 420 which has been held to apply to cases under both federal and provincial legislation.

[54] The **MCA** does not make a definitive statement about the objectives of spousal support. However, section 4 requires the court to consider a wide range of factors when determining whether or not to order a person to pay maintenance (i.e. entitlement) and the amount of maintenance to be paid (i.e. quantum).

[55] Section 5 stipulates that a maintained spouse has an obligation to assume responsibility for her/his own maintenance unless considering the ages of the spouses, the duration of the relationship, the needs of the maintained spouse and their origins, it would be unreasonable to require the maintained spouse to assume responsibility for her/his own maintenance and, it would be reasonable to require the other spouse to continue to bear responsibility.

[56] Given the wife's stance, it was not surprising that submissions on her behalf also did not dwell on the **Spousal Support Advisory Guidelines (SSAG)**.

[57] **Bracklow v. Bracklow** identified three types of support. One is "contractual" support - that is, support by reference to any agreements between the spouses about their financial obligations to each other. In the present case, there was no evidence of any formal or tacit agreements about their respective obligations in the event of marriage breakdown.

[58] Another type of support is "non-compensatory, dependency-based". It focuses on the disparity (if any) between the parties' needs and their financial means. In the present case, there is a wide disparity in incomes. The wife did not argue that she has inability to pay; but she submitted the husband can and should meet his financial needs from his own income sources.

[59] Lastly, there is "compensatory support". It addresses any economic advantages and disadvantages to the spouses related to the marriage and the

parties' respective roles. To complicate things, this category may include specific and non-specific support elements.

[60] The evidence and submissions on behalf of the self-represented husband seemed to span the last two categories and, in my opinion, can be easily linked to several of the statutory considerations, previously mentioned.

[61] On the evidence, I find the couple's widely disparate income and capital positions were known from the outset. That the husband was retired, was living very modestly, and had health issues was known. It was known, and likely understood, that the wife intended to stay in the workforce for the foreseeable future - she being the younger of the two, and apparently in better health. An obvious corollary is that the husband's lifestyle would immediately and significantly improve upon cohabitation and (later) marriage. The prospect of shared enjoyment of a home and property is but one aspect of this.

[62] The husband relocated inter-provincially at his own expense and left some of his household goods and effects behind. From his limited but steady income, he contributed money to recurring household expenses and bought groceries, as needed. While things were going well, neither kept records of these things.

[63] The couple kept separate bank accounts, credit cards, etcetera. But, otherwise their lives melded as evidenced by frequent vacations, their shared interest in valuable collectibles, dining out, etcetera. With the wife's help, the husband was able at one stage to secure additional income from work outside the home.

[64] I am satisfied that despite the separate banking arrangements, there was some intertwining of their expenditures from which some benefit was derived by each and by which some detriment was suffered by each when the husband's financial world fell apart and the marriage broke down.

[65] By sheer force of circumstances, in practical terms, I find the husband had become dependant on his spouse to sustain his improved lifestyle. So long as the husband was contributing to expenses, and because there were no financial worries on the horizon, that was fine with the wife.

[66] As mentioned, I am unable to unravel the spouses' finances or quantify the respective gains and losses - because of their failure to present a proper accounting or recapitulation, particularly for the run-up to the husband's bankruptcy.

[67] However, the husband's version of events did have a ring of credibility to it and, if accurate, it arguably supports a compensatory relief claim. In the near term, there is also sufficient evidence to sustain non-compensatory entitlement, in my opinion.

[68] Enhancing the husband's entitlement under the **MCA** factors was the informal understanding that the principle wage earner would be the wife who would also be mainly responsible for the payment of most of their routine expenses, subject to the husband's contributions. The household likely benefited financially from the husband's role, albeit short-lived, as a secondary wage earner.

[69] In the result, I find the husband is entitled to support.

[70] That leaves the issues of quantum and duration. There is also the question of court costs. However, as noted, these issues received little, if any, attention at the hearing.

[71] Informally, at the pre-hearing stage, I stated that my analysis would include reference to the **SSAG**. I reiterate that the Guidelines provide a useful litmus test which may be conveniently used with the traditional tests found in the jurisprudence. The **SSAG** may also provide a helpful framework for negotiations in aid of settlement because they postulate a range of awards and the factors which may influence where an award might land within the range.

[72] This is a case of a marriage of short duration. I will venture to say that even under the **SSAG** the final award would not be indefinite or long-term, irrespective of the ages of the spouses.

[73] But, in the present case, the parties did not submit any **SSAG** support calculations or any income tax calculations which invariably are spawned in the process. This latter is important because any (periodic) award will be taxable in the hands of the husband and tax deductible by the wife. The wife's undeclared income introduced an unexpected element.

[74] In the circumstances, I am going to adjourn decision in regard to quantum and duration, and give the parties an opportunity to make written submissions and (also) one last chance to settle.

[75] I believe the **SSAG** will yield a range of potential awards which may prove helpful in any discussions. I hasten to add that the final outcome, whether by agreement or by court decision, may include a lump sum payment, monthly or other periodic payments, or a combination thereof. And there is no compelling reason that the award should not speak as of the month when the husband started his application.

[76] The husband has been successful on the issue of entitlement. We will see what happens with the remaining issues.

[77] In any event, the issue of court costs will also have to be addressed because the subject was not broached at the hearing. I encourage the parties to include this issue in their discussions, and their written submissions, if there is no settlement.

[78] The submissions are due before the close of business on April 13th.

[79] Once again, I encourage the husband to retain a lawyer to assist with him with these tasks. If no further submissions are received from the husband, or on behalf of the wife for that matter, I will rely on those made last day in court and the parties will be contacted when a decision is ready.

[80] If settlement is achieved, the Family Court Office should be advised and an Order incorporating the entire result submitted.

Part 2

By the Court (written release):

[81] After the last court appearance, the parties did not settle anything. It is unclear whether the husband consulted a lawyer but, upon reviewing his

handwritten submissions, that seems unlikely. He asked for a lump sum award and court costs. He submitted one set of DIVORCEmate software calculations which were unaccompanied by any analysis.

[82] Mr. Bond, on behalf of the wife, submitted there should be modest monthly support of short duration, effective around the time the case started, and that no costs should be awarded. He filed a legal memorandum and **SSAP** calculations, generated with the help of ChildView software, for several different scenarios.

[83] I have considered the July 2008 Department of Justice (Canada) **Spousal Support Advisory Guidelines** publication, prepared by Professors Carol Rogerson and Rollie Thompson. I zeroed in on Income (Chapter 6), The Without Child Support Formula (Chapter 7), and Using the Ranges (Chapter 9).

[84] The authors wrote: “The Advisory Guidelines start from the practical position that the relevant time for determining the incomes of the spouses is the date of the hearing or the date of the agreement, at both interim and initial stages.” And, that “the formulas provide ranges for amounts and that adjustments can be made through selecting a particular amount within the ranges”. On the income issue, the authors say that one should start with the definition of income found in the **Federal Child Support Guidelines (FCSG)**. “Gross” annual income is therefore the standard measure.

[85] In the present case, separation occurred in 2010 when both spouses had income not disclosed for income tax purposes. Hers has remained steady; but his dropped significantly in 2011- perhaps by as much as \$14,400.

[86] Mr. Bond submitted that the facts auger for a somewhat different approach to income and relevant date(s) that would reflect the parties’ actual incomes and the admitted, significant changes in the husband’s income. Such an approach, in his submission, would result in two tiers or sets of numbers linked to specific time lines and, in turn, generate more fair and realistic ranges of awards.

[87] I agree. The **SSAG** are not supposed to limit the court’s analysis. And their application should not result in an award inconsistent with that which might be achieved using a traditional approach, or run counter to common sense.

[88] I have already found the wife was on notice about the husband's claim shortly after the separation. He explained the difficulties in retaining counsel and starting legal action. Accordingly, I do not intend to deny support for the few months that elapsed before he started formal proceedings (as she submitted). November 1, 2010 will be the relevant date.

[89] I canvassed the parties' respective financial situations previously. Adopting Mr. Bond's approach, the **SSAP** quantum range from November 2010 until July, 2011 is \$120 to \$159, monthly. From July, 2011 onward it is \$174 to \$231, monthly.

[90] I find no special considerations or factors in this short term relationship to push or skewer potential awards into the high or low end of the ranges. Each spouse in her/his own way recognized that the husband should land financially just about where he stood when they met.

[91] I find that mid-range figures are appropriate; and I note that the **SSAG** point to an award duration of .5 to 1 year for each year of marriage. Marriage in this context is to include cohabitation. The suggested support duration in the present case is 1.5 to 3 years.

[92] I do not know what will happen in other courts, but the parties should achieve some finality in Family Court.

[93] I am mindful that divorce proceedings could trigger a debate over matrimonial property and renewed debate about support.

[94] I am also alert to the wife's evidence that (already at the age of 67) she is unlikely to be in the workforce much longer. I fix duration at 2 years, calculated from November 1, 2010 (being the first day of the month immediately following the separation).

[95] Crunching the numbers under the **SSAG**, at first glance the wife's support obligation would be about \$140 monthly, starting effective November 1, 2010 to and including June 1, 2011 [\$1,120] before increasing to about \$203 monthly, effective July 1, 2011, and continuing at that level until and including first day October 1, 2012 [\$3,045]. The theoretical grand total is about \$4,165.

[96] To expedite conclusion, counsel for the wife proposed a 6-month, current, periodic order (that is, one which approximates the total quantum but amortizes payment over a relatively short term). In this submission, the income tax implications for both parties are still to be recognized as intended by the **SSAG**. And, this would obviate the need to segregate current support from any arrears, and eliminate a formal repayment schedule.

[97] In my opinion, a support award of \$700 monthly starting effective April 1, 2012, continuing on the first day of each month, to and including September 1, 2012 will accomplish the objective of putting all of the awarded support into the husband's hands quickly and regularly. I will so order. Given the short time span involved, payments may be made directly by the wife to the husband instead of through the Maintenance Enforcement Program. He shall provide her with receipts upon payment.

[98] On the issue of court costs, the wife cited **Crewe v. Crewe** 2008 NSCA 115, **Fong v. Chan** (1999), 46 O.R. (3d) 333 (C.A.), and **Leigh v. Milne**, 2010 NSCA 36. These cases provide some guidance if considering an award of costs when requested by a self-represented litigant. I agree with the submissions that there is no automatic entitlement by successful self-represented individuals and that costs remain entirely in the court's discretion.

[99] In the present case, the husband had the benefit of legal aid representation in the early stages. He represented himself at the hearing when he testified but called no other witnesses. He is retired; he lost no time or money by virtue of his court appearances, including the hearing.

[100] By contrast, the wife is employed. She has had the benefit of private counsel and is responsible for his fees and disbursements. Some time was likely lost from work to participate in the case.

[101] Both spouses "invested" some personal time and effort in the case, but no more or less than other litigants. The final hearing and oral decision took less than a day, in total.

[102] Without intending any disrespect, the exhibits and other materials presented to the court by the husband were scant. And, the content was very basic. Most of his case was developed in the courtroom.

[103] By contrast, the wife's case was well-prepared, organized and thoughtful. The **SSAG** aspects of the case were supported by a legal memorandum and calculations from Mr. Bond.

[104] The wife had an arguable case regarding entitlement. When she did not prevail, she took a reasonable position regarding the quantum and duration of support. She achieved some measure of success in this regard.

[105] There was no evidence about settlement positions advanced by either of the parties before the contest (against which the outcome might be compared).

[106] In the circumstances, no costs are awarded to either spouse.

[107] Mr. Bond shall prepare an Order incorporating the results.

Dyer, J. F. C.