

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Leverman v. Leverman, 2007 NSSC 271

Date: 20070914

Docket: 1201-058684

Registry: Halifax

Between:

Kerry Elizabeth Leverman

Petitioner

v.

Jeffrey Scott Leverman

Respondent

Judge:

The Honourable Justice Moira C. Legere Sers

**Final Written
Submissions:**

Petitioner - August 17, 2007

Respondent - August 31, 2007

Counsel:

R. Ritchie Wheeler, for the petitioner

Jeffrey Scott Leverman, the respondent

By the Court:

[1] I have reviewed your submissions on costs.

[2] In the absence of an updated valuation of the matrimonial property, the court had only the outdated appraisal in the amount of \$285,000. Subsequent to the decision and by order of the court, the home was appraised at \$340,000. That is a significant difference in valuation.

[3] Mr. Leverman failed to keep his counsel informed and failed to provide to the court, as directed, full financial disclosure. In spite of numerous opportunities, he failed to confirm his personal tax debt as of the date of separation. No hold back can be made for that debt, if it exists.

[4] The divorce hearing took place over two days. With financial disclosure and appropriate efforts, this case could have been settled and, if not settled, should have only required one day. Mr. Leverman did not always provide the information necessary in a timely fashion to assist his lawyer when he had one and brought last minute disclosure to the court which, in the interests of justice, was admitted as evidence subject to weight to facilitate final resolution without further delays.

[5] Mr. Leverman put counsel for Ms. Leverman to great expense and additional efforts to locate financial information for the courts evaluation.

[6] The parties were unable to proceed at the scheduled two hour interim hearing on April 28, 2005, due to Mr. Leverman's request to seek counsel. He failed to provide full disclosure as directed on May 9, 2004, and failed to file the affidavits as directed in advance of the hearing on August 30, 2005.

[7] The matter was further set down on December 6, 2005, to deal with the sale of the business property.

[8] Mr. Leverman's solicitor withdrew on October 13, 2006, partly due to the failure to provide the necessary information and partly due to escalating costs. Mr. Leverman's counsel was prepared to continue to facilitate settlement beyond what one could reasonably expect. Mr. Leverman appeared at trial with last minute and incomplete disclosure; thereby, prolonging the trial.

[9] Therefore, I find that Mr. Leverman unnecessarily lengthened this proceeding by his chronic failure to disclose and attend to the matter of settlement.

[10] Late filing further complicated the proceeding and last minute unsubstantiated evidence on home improvement needed to sell further complicated the matter. These last minute expenditures were disallowed.

[11] As to success on the issues, Ms. Leverman was largely successful on most issues. Neither party provided an accurate estimate of the value of the matrimonial home necessitating a direction from the court to appraise the property.

[12] Ms. Leverman exaggerated her involvement in the business and underestimated the effect of her lack of participation in financial matters.

[13] The court was not provided with accurate information of the mortgage balance. This was available to both parties.

[14] Finally, the offer to settle made by Ms. Leverman was slightly more favourable to Mr. Leverman than the court decision.

[15] Mr. Leverman has essentially borne the family's financial difficulties brought, in part, by the separation and divorce, in part by the circumstances of their marriage, including the mother's health issues, and in part by his own financial management.

[16] Counsel for Ms. Leverman made numerous genuine efforts to settle all matters in dispute.

[17] I order the respondent to pay costs to the petitioner in the amount of \$12,500 inclusive of disbursements.

[18] This amount shall be added to Ms. Leverman's share of the equity.

[19] Further costs associated with any necessary appearances to effect the decision will be assessed at the time of the appearance.

[20] The terms of the decision were intended to be effected so as to remove Ms. Leverman from liability for the mortgages, to effect a clean break between the parties and was not intended to continue her liability for property already divided.

[21] Mr. Wheeler has filed a letter outlining some difficulty with effecting the terms of the decision. Should there be a need to set this matter down to seek further directions, you are directed to seek an immediate date with scheduling.

[22] Counsel for the petitioner shall draft the order.

Legere Sers, J.

September 14, 2007
Halifax, Nova Scotia