

**SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: *MacNeil v. MacNeil*, 2015 NSSC 408**

**ENDORSEMENT ON COSTS
November 13, 2015**

Robert Bruce MacNeil and Lesley Ann MacNeil
2015 No.1201-868623 (095732)

- [1] June 15, 2015 appearance to hear two motions, scheduled for one hour.
 - One motion hearing was scheduled for the sale of the matrimonial home (Notice of Motion filed April 22, 2015, and Petition for Divorce also filed).
 - Another motion for interim relief was brought in relation to spousal support. (Notice of Motion for Interim Relief filed on June 9, 2015).
 - Mr. MacNeil requested an adjournment of the motion for relief in relation to spousal support indicating further financial disclosure would be necessary from Ms. MacNeil. An adjournment was granted. The matter was scheduled to be heard on June 25, 2015 between 9:30 and 12:30.

- [2] June 25, 2015 hearing commenced, scheduled for 3 hours.
 - There was agreement between the parties to sell the matrimonial home. Terms were consented to. Court indicated it was prepared to maintain jurisdiction with respect to the sale of the matrimonial home in order to address any outstanding issues or problems which may arise.
 - Mr. Bland agreed to prepare the order with respect to the sale of the matrimonial home.
 - The hearing scheduled to deal with spousal support commenced but could not be completed in the time allotted and was adjourned to June 30, 2015 for one hour.

- [3] June 30, 2015 interim hearing continued, for one hour.

- [4] July 3, 2015 an oral decision rendered. Mr. Lytle agreed to prepare the order with respect to spousal support and Mr. Bland confirmed he would prepare the order in relation to the sale of the matrimonial home.
 - Counsel were directed to file submissions with respect to costs by July 31, 2015.

- [5] On August 6, 2015, the Court received Ms. MacNeil 's submissions with respect to

costs and on August 19, 2015 Mr. MacNeil's reply was received.

[6] Ms. MacNeil is seeking costs on a “party and party basis, in accordance with the Tarriffs”. She argues an appropriate award of costs would be \$2,500.00, the equivalent of one day in chambers adjusted upward as it is her position the applications should not have been necessary. Ms. MacNeil is asking for costs to be payable forthwith if the matter does not proceed to trial.

[7] Mr. MacNeil argues that neither party should be awarded costs in this matter at his stage, however indicates he may wish to make submissions on costs in the broader Divorce proceedings, including costs with respect to any interim hearing, at the conclusion of all proceedings.

Decision:

[8] There shall be no costs.

Reasons:

[9] A hearing took place over several days, specifically on three different dates June 15, 25 and 30, 2015 for a total of five hours.

[10] The matter involving the sale of the matrimonial home was settled between the parties. The most significant issue at the hearing was spousal support.

[11] Mr. MacNeil was ordered to pay Ms. MacNeil ongoing interim spousal support in the amount of \$1,800.00, beginning July 1, 2015. The court granted an interim award of retroactive spousal support in the amount of \$1,800.00 per month for the period between December 1, 2014 and June 1, 2015, for a total of \$12,600.00 in arrears. Mr. MacNeil was directed to pay \$500 toward arrears beginning on July 1, 2015. The interim order was granted without prejudice to either party making an argument with respect to entitlement, quantum and duration of retroactive and / or ongoing spousal support.

[12] *Civil Procedure Rule 77.03(3)* provides that “Costs of a proceeding follow the result”. Costs are in my discretion. A decision not to award costs must be principled.

[13] *Civil Procedure Rule 77.02(1)* states that I “may, at any time, make any order about costs as [I am] satisfied will do justice between the parties.”

[14] Mr. MacNeil did not claim costs with respect to his Notice of Interim Motion for

relief (sale of the matrimonial home), but he did claim costs in his Petition for Divorce / Ms. MacNeil did not claim costs in her pleadings. However, when asked, the Court did invite counsel to make submissions with respect to costs.

[15] Mr. MacNeil's motion compelled Ms. MacNeil to reach an agreement on the sale of the home.

[16] Ms. MacNeil's motion resulted in an order for Mr. MacNeil to pay spousal support to Ms. MacNeil.

[17] Costs are to follow the event. Each party was successful. Rather than award costs from each to the other, I order there be no costs.

Cindy G. Cormier, J.S.C.(F.D.)