

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: MacLeod v. MacLeod, 2014 NSSC 339

Date: 2014-09-18

Docket: No. 1217-000764

Registry: Port Hawkesbury

Between:

Mary Jacqueline MacLeod

Petitioner

v.

Ian Alexander MacLeod

Respondent

Judge: The Honourable Justice Moira C. Legere Sers

Heard: May 6, 2014, in Port Hawkesbury, Nova Scotia

Counsel: Nash Brogan, for the Petitioner
Diana Musgrave, for the Respondent

By the Court:

[1] There are two separate hearings to consider in this costs award.

[2] The first, a mobility hearing, took place on August 9th, 2013 lasting approximately three hours.

[3] The second occurred on May 6th, 2014 and relates to the Divorce, a division of assets and debts and the Petitioner's request for spousal support. This lasted approximately three hours as well. Disclosure and valuations were required to prepare for this hearing.

[4] The Petitioner was successful in her mobility application. She was granted permission to move to find employment that would better support her and her child. It was reasonable that the father would resist this move.

[5] The Court's decision was not reflective of any adverse finding against the father. The decision arose out of very pragmatic reasons permitting the mother to move forward in what she claimed was a better employment market to support her child.

[6] The Petitioner indicates in her costs brief that her total actual legal costs for both hearings were \$17,250.

[7] The Respondent's counsel indicates his total actual legal costs \$14,978.62

[8] Each agree applying tariff "A" results in an amount of \$22,750 and \$1,000 for trial time for a total of \$23,750.

[9] There was only one issue in the mobility hearing. The parties agreed on child support.

[10] There were a number of issues in the Divorce hearing including the Petitioner's request for an equal division of the matrimonial home, an unequal division of debts in her favour as well as a request for spousal support.

[11] As to all of these issues, she was unsuccessful.

[12] The Respondent was granted an unequal division of the equity in the matrimonial home, an equal division of debts and no obligation to pay spousal support. He was successful on all counts.

[13] The Respondent made two offers for settlement, the second remained open for acceptance as indicated in a letter dated August 21st, 2013.

[14] Each of these offers were generous in relation to the manner of acquisition of the assets and the circumstances of the parties.

[15] The second offer was significantly more generous than the result at trial.

[16] Each party has discounted their request, acknowledging the success of the other in the separate hearings.

[17] The Petitioner was successful in the mobility hearing and the Respondent in the Divorce and matrimonial property hearing.

[18] I note, however, that the Petitioner's demands were unreasonable. The offers of settlement, if accepted, would have avoided the cost of hearing and were more favourable to the Petitioner than that which was ordered at the hearing.

[19] In total, the Respondent was wholly successful in the latest hearing.

[20] I have reviewed the authorities and considered the number of issues, the offers to settle, *Civil Procedure Rule* 10.09, and the tariff amount as agreed.

[21] I order \$5,000 costs payable by the Petitioner to the Respondent.

Moira C. Legere Sers, J.