

**CASE NO.**

Cite as: Vint v. Vint, 1998 NSCA 168

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NOREEN LILLIAN VINT

- and -

DEXTER IAN VINT

(Appellant)

(Respondent)

C.A. No. 146455

Halifax, N.S.

CROMWELL, J.A.  
(orally)

APPEAL HEARD:

October 6, 1998

JUDGMENT DELIVERED:

October 6, 1998

WRITTEN RELEASE OF ORAL:

October 7, 1998

SUBJECT:        **Divorce - Corollary Relief - Spousal Support**

SUMMARY:

The appellant's claim for spousal support against her ex-husband was dismissed by the trial judge. At trial, the judge found as a fact that the respondent husband had income of approximately \$20,000 per year and the appellant had income of approximately \$7800 per year. It was not disputed that the respondent was residing with his new spouse, whose income was \$35,000 per year in his mother-in-law's house. The respondent had assumed complete responsibility for the care and support of the one child of the marriage.

The trial judge dismissed the appellant's claim for spousal support on the basis that the respondent had no capacity to pay spousal support because of the responsibilities for the support of his daughter.

ISSUE:

Did the learned trial judge err in principle or was his decision otherwise clearly wrong?

RESULT:

The appeal was allowed. The manner in which the case was placed before the learned trial judge was most unsatisfactory. There was no evidence before him about the respondent's expenses at the time of hearing. There was some evidence of ability to pay and, in the absence of evidence about the respondent's current expenses, the learned trial judge was clearly wrong to find on the evidence before him that the respondent had no ability to pay spousal support.

The record did not permit the Court of Appeal to set an appropriate amount for spousal support. Accordingly a new hearing was directed.

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DECISION, QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER  
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