

NOVA SCOTIA COURT OF APPEAL

Citation: *MacDonald v. MacDonald*, 2004 NSCA 153

Date: 20041215

Docket: CA 219531

Registry: Halifax

Between:

Florence Marie MacDonald

Appellant

v.

Charles Arthur MacDonald

Respondent

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: November 9, 2004

Subject: *Family law, termination of spousal support*

Summary: On an application to vary, the trial judge terminated spousal support after one additional year when it had been paid for about two years, after a twenty year traditional marriage. He reduced the amount of spousal support from \$750 to \$500 per month for the last year.

Issue: Did the trial judge err by overemphasizing self sufficiency and by considering the husband's payment of the matrimonial debt when the separation agreement already provided for this. Did he misapprehend the evidence as to the amount of spousal support paid since separation? Did he err in reducing the amount for the last year?

Result: Appeal allowed in part. The trial judge erred in focusing on the wife's need to become self sufficient and failing to consider the three other objectives set out in s.17(7) of the *Divorce Act*. He also erred by considering the husband's payment of the matrimonial debt when this was subsumed in the parties' separation agreement which was incorporated into the Corollary Relief Judgment. He

also misapprehended the evidence which was unclear before him as to the number of years that the husband had paid spousal support after separation, partly because the parties did not provide him with a copy of the first separation agreement they entered into. He did not err in reducing the monthly amount of spousal support since the evidence indicated the child support had increased by a similar amount.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 13 pages.