

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** Richards v. Richards, 2012 NSCA 7

**Date:** 20120120

**Docket:** CA 341497

**Registry:** Halifax

**Between:**

Sandra Lynn Richards

Appellant

v.

Robert James Richards

Respondent

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**Judge:** The Honourable Justice Peter M. S. Bryson

**Appeal Heard:** September 26, 2011

**Subject:** Family Law; *Divorce Act*, s. 15, Interim Spousal Support; Imputing Income

**Summary:** The parties operated family companies of which they were the only directors. Mr. Richards was president and had day-to-day management control of the companies, subject to a shareholder agreement in the case of one of the companies (“JEL”). Dividends were paid to a family trust from JEL and then distributed to the parties and their children. After separation, Mr. Richards made several offers to Ms. Richards. None were accepted. He then refused to authorize any further dividend distributions and drew no income from the companies. Ms. Richards applied for interim spousal support. Chambers judge found that because she had rejected several offers of settlement, she failed to establish need.

**Issue:** Was Ms. Richards entitled to interim support?

**Result:** Appeal allowed. Ms. Richards was clearly in need. Refusal to accept offers was not a basis to deny relief. Whether Ms. Richards behaved unreasonably in not settling was not a

question of entitlement but a question of costs and should be resolved following trial. Mr. Richards changed *status quo* by refusing to authorize further dividend or income payments. Income totalling previous amounts paid to both parties was imputed to Mr. Richards who could pay himself a reasonable salary. Ms. Richards' application to the court was a waiver of any right she might otherwise have to object to such payment under the shareholder agreement.

***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 17 pages.***