

NOVA SCOTIA COURT OF APPEAL
Citation: *Campbell v. Campbell*, 2012 NSCA 86

Date: 20120822
Docket: CA 370421
Registry: Halifax

Between:

Peggy Maureen Campbell

Appellant

v.

Robert James Campbell

Respondent

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: June 6, 2012

Subject: **Family Law. Calculation of Income for Spousal and Child Support. Enforceability of Separation Agreement. Determination of Child of the Marriage. Division of Matrimonial Property.**

Summary: The appellant appeals alleging that the trial judge erred in failing to determine that their 20 year old daughter was a child of the marriage, failing to find that property inherited by the respondent after the separation was matrimonial property, erred in failing to vary the terms of the Separation Agreement as it related to matrimonial property and, finally, erred in varying the

Separation Agreement as it related to spousal support and child maintenance.

Issue: Did the trial judge err as suggested by the appellant?

Result: Appeal dismissed with costs to the respondent in the amount of \$1,000. The respondent's termination of employment was a material change in circumstances not contemplated by the parties at the time of entering into the Separation Agreement which warranted the trial judge varying the amounts payable for spousal support. The parties' daughter ceased to be a child of the marriage when she left school in 2008 and it was not shown, on the evidence, that she was unable, by illness or other cause, to obtain the necessities of life. The trial judge's determination of the amount to be used for calculation of spousal support and child support was fair under the circumstances. It was appropriate for him to average the severance package received by the husband after termination of his employment over two years rather than including it into income all in one year. Finally, the property the respondent inherited from his mother, after separation, was not matrimonial property.

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 20 pages.