

NOVA SCOTIA COURT OF APPEAL

Citation: *MacDonald v. MacDonald*, 2017 NSCA 18

Date: 20170216

Docket: CA 448299

Registry: Halifax

Between:

Cheryl Lynn MacDonald

Appellant

v.

Lawrence Bernard MacDonald

Respondent

Judge:

The Honourable Justice Linda Lee Oland

Appeal Heard:

September 8, 2016, in Halifax, Nova Scotia

Subject:

Divorce Act, s. 15.2(4) and (6) – Spousal Support – Quantum
– Spousal Support Advisory Guidelines – Duration – Costs

Summary:

During the 25 years of their marriage, Mr. MacDonald had been the main breadwinner and regularly earned over \$150,000 annually. Ms. MacDonald, the primary caregiver of their children, had little work experience. After their separation, he became unemployed and filed for bankruptcy. Ms. MacDonald found work of various kinds. After 14 months, Mr. MacDonald was rehired. Both parties were unemployed at trial.

The trial judge found that Ms. MacDonald was entitled to spousal support at separation, on both compensatory and non-compensatory grounds. No arrears for the 14 months when Mr. MacDonald was unemployed were awarded. The judge ordered payment of arrears of \$1,000 per month from November 2014 to and including September 2015, for a total of \$11,000, spousal support of \$1.00 per year effective

January 2016, and each party to bear their own costs.

Issues: Whether the judge erred in (a) setting the quantum of retroactive spousal support; (b) ending retroactive support in September 2015; (c) in setting the quantum of ongoing support; (d) in determining that the appellant was self-sufficient; and (e) in his award of costs.

Result: Appeal allowed. While the monthly spousal support he awarded for the period that Mr. MacDonald was working and able to pay might satisfy Ms. MacDonald's need as reflected in her monthly deficit, it did not address or satisfy the compensatory aspect of her entitlement that the judge had identified. The judge's reasons did not explain why he terminated those payments a month before Mr. MacDonald stopped working. The amount of the spousal support was increased and payment extended for a further month. The judge did not determine that she was self-sufficient based on her re-partnering, and committed no error in setting the quantum of ongoing spousal support, or his award of costs.

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 18 pages.