

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Cunningham v. Cunningham*, 2018 NSCA 63

**Date:** 20180720

**Docket:** CA 469623

**Registry:** Halifax

**Between:**

Darryl Cunningham

Appellant

v.

Claudia Cunningham

Respondent

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**Judge:** The Honourable Justice Anne S. Derrick

**Appeal Heard:** June 12, 2018, in Halifax, Nova Scotia

**Subject:** **The *Matrimonial Property Act*, R.S.N.S. 1989, c. 275, as amended 1995-96, c. 13, s. 83, ss. 4(1) and 13. Division of assets. Equal division of the appellant's RRSPs.**

**Summary:** The appellant had acquired RRSPs prior to his marriage to the respondent. He did not dispute that they were matrimonial assets. He wanted them excluded from division on divorce. He argued that an equal division would be “unfair or unconscionable”. The trial judge ordered an equal division of the RRSPs at source.

**Issue:** Was the trial judge correct in finding that the RRSPs should be divided equally on the divorce of the parties?

**Result:** Appeal dismissed with costs. The trial judge was correct in finding the appellant had failed to establish that an equal division of the RRSPs would be unfair or unconscionable. The cases relied on by the appellant were all distinguishable. The trial judge's decision to divide the RRSPs equally was entitled

to significant deference. She undertook a thorough analysis under section 13 of the *Act* and correctly applied the law. She took a contextualized approach to the case and considered all the circumstances of the parties and the marriage.

***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 12 pages.***