

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Denton v. Denton, 2005 NSSC 237

Date: 2005 08 26

Docket: 1207-002420 (025053)

Registry: Truro

BETWEEN:

Sharon Pearl Denton

Petitioner

and

Robert Archibald Denton

Respondent

DECISION ON COSTS

Judge: The Honourable Justice Gerald R. P. Moir

Date Heard: 7, 8, 9, and 18 February 2005

Submissions: 18 July 2005, 19 August 2005, 23 August 2005

Counsel: Ms. Melinda J. MacLean, QC, for Sharon Denton
Mr. Lloyd I. Berliner, for Robert Denton

Moir, J. :

[1] I heard the trial of this divorce last February and released a decision in June. The parties were unable to agree on costs.

[2] The trial was devoted mostly to the issues of spousal support and occupation of the couple's summer cottage. Success was divided. Ms. Denton sought spousal support in a range with a mid-point of \$1,685 a month. Mr. Denton argued that no spousal support should be ordered. His secondary position was that \$400 a month would be sufficient. I awarded \$750 a month. Success was about evenly divided. That inclines me towards an award of no costs. I am now told that Mr. Denton offered \$700 at the time of trial. However, this was tied to Mr. Denton's offer on the cottage property, which had him acquiring title and was unacceptable to Ms. Denton. The offer was too late and too tied to the other issue to weigh significantly in the exercise of my discretion concerning costs.

[3] Each party sought exclusive ownership of the cottage property. I found that both had genuine, strong attachments to the property such that the desires of neither should prevail over the other. If they cannot work out an arrangement to share the property, it will be sold by the Court. Success was evenly divided.

[4] The minor issues concerned matrimonial debt. Here, Mr. Denton was more successful than Ms. Denton.

[5] Each party has complaints against the other regarding the way pre-trial proceedings and the trial were conducted. For example, Ms. Denton, rightly, complains that she had to come to Court too often to secure interim spousal support. Mr. Denton, rightly, complains that Ms. Denton significantly overstated her expenses when she applied for interim support. Neither party can claim to have advanced the issues to trial or at trial in an economic or co-operative fashion.

[6] I have decided to award no costs to either party.

[7] My decision on the substantive issues included “I will order the cottage sold at public auction . . .”. As a correction to that decision, I would now say that the sale does not have to be by public auction. I would be prepared to sign an order that provides for public sale on terms to be settled by the Court.

J.

Halifax, Nova Scotia
26 August 2005