

**IN THE SUPREME COURT OF NOVA SCOTIA**  
(FAMILY DIVISION)

**Citation:** Gannon v. Gannon, 2010 NSSC 226

**Date:** 2010 06 16

**Docket:** 1201-52327 (SFHD-065803)

**Registry:** Halifax

**Between:**

Carl S. Gannon

Petitioner

v.

Frances N. Gannon

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Leslie J. Dellapinna

**Heard:** May 31, 2010 in Halifax, Nova Scotia

**Subject:** Divorce, division of matrimonial assets (matrimonial home and the parties' pensions) and occupation rent.

**Summary:** The parties were married in September 1980 and separated in January 1992. The husband petitioned for divorce in October 1997 and the Respondent filed an Answer in November 1997. The husband filed an Amended Petition in January 1998.

Neither party took any steps to finalize the divorce until the wife filed a Request for Trial Date and a Certificate of Readiness in 2009.

**Issues:** How should the equity in the matrimonial home be divided?  
How should the husband's pension benefits be divided?  
How should the wife's pension contributions which were withdrawn in the late 1990's be divided?  
Was the husband entitled to occupation rent from the wife for the period of  
of time that she occupied the matrimonial home after the parties separated?

**Result:**

Neither party was entitled to an unequal division. All assets would be divided equally. The wife was given time to buy out the husband's interest in the matrimonial home based on an appraised value as contained in a Report presented to the Court. If she decided not to buy out his interest in the home the home was to be listed for sale and upon its sale the net sale proceeds, after the payout of all encumbrances and disposition costs, would be divided equally between the parties.

The wife was granted an equal division of the husband's pension benefits less one half of the value of the contributions that she was refunded in the late 1990's.

The husband's claim for occupation rent was dismissed. He had failed to include in his pleadings a request for occupation rent. At no time during the wife's occupation of the home did the husband pay her spousal support although she was in need of the same. Further, the husband's delay in bringing this issue forward was excessive and was raised only after the wife requested a trial date. Also, at no time prior to the wife requesting a trial date did the husband make any real effort to advance his claim for his share in the equity in the matrimonial home.

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