

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Darlington v. Moore, 2011 NSSC 152

Date: 20110418

Docket: SFHMCA-068167

Registry: Halifax

Between:

Michelle Darlington

Applicant

v.

David Paul Moore

Respondent

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Judge: The Honourable Justice Mona M. Lynch

Heard: March 28, 29 & 30, 2011 in Halifax, Nova Scotia

Subject: Common-law Property; **Partition Act**; Determination and Imputation of Income; Child and Spousal Maintenance

Summary: The couple lived together for 20 year and had two children. Mother's employment was secondary to the family unit. She was the primary care-giver of the children and quit her employment in 1994 to look after a child who was ill. They lived in the family home which was in both of their names from 2000 until their separation in 2009. The father had a pension, RRSPs and investments in his name only. The mother had RRSPs in her name only. There were RESPs accumulated. Father did not comply with disclosure and filing directions.

Issue: How should the property be divided? What is the father's income for maintenance? Is there entitlement to spousal maintenance? What amount of child and spousal maintenance should be paid?

Result:

Proceeds from the jointly held family home to be divided equally. The parities were in a joint family venture which they both contributed to and the pension, investments and RRSPs are to be divided equally. The RESPs are to be held in trust for the children. Because of the lack of disclosure, the father's income was determined from his bank accounts and imputation. The mother is entitled to spousal maintenance. Retroactive and prospective child and spousal maintenance ordered.

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