

SUPREME COURT OF NOVA SCOTIA

Citation: Larkin v. Larkin, 2012 NSSC 439

Date: 20121017

Docket: Yar. No. 1208-003002 (SYD-072789)

Registry: Yarmouth

Between:

Helen Larkin

Petitioner

v.

Donald Larkin

Respondent

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Judge: The Honourable Justice A. David MacAdam

Heard: October 16, 17, 2012, in Yarmouth, Nova Scotia

**Final Written
Submissions:** September 12, 2012

Written Decision: December 18, 2012

Subject: family law; matrimonial property; pension division

Summary: The parties separated and divorced after a marriage of approximately 37 years. Their two adult children were no longer children of the marriage. The husband had suffered from alcoholism during the latter years of the marriage, while the wife had been addicted to gambling for a time. The wife had an employment pension from the federal public service. She sought an unequal division of the pension under section 13 of the *Matrimonial Property Act*.

Issue: Should the wife's pension be divided unequally?

Result:

The evidence did not establish a basis for unequal division on the basis of unreasonable impoverishment of assets pursuant to s. 13(a) of the Act, on the basis of debts and liabilities pursuant to s. 13(b), or on the basis of appreciation of assets during the marriage, pursuant to s. 13(j). However, the wife did establish that an unequal division of would be unfair or unconscionable on the basis of disproportionate contributions to the marriage and to the welfare of the family pursuant to s. 13(i). As a result, the wife was entitled to three-quarters of the pension.

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