

SUPREME COURT OF NOVA SCOTIA

Citation: Bain v Nova Scotia (Attorney General), 2013 NSSC 91

Date: 20130228

Docket: Syd. No. 313233

Registry: Sydney, N.S.

Between:

SANDRA BAIN of Saint John, Province of New Brunswick, and LEOTHA SEALE, of Sydney, Nova Scotia

Plaintiffs (Defendants by Counterclaim)

and

THE ATTORNEY GENERAL OF THE PROVINCE OF NOVA SCOTIA,
representing Her Majesty the Queen in Right of the Province

Defendant

and

SCOTIA LIMESTONE LIMITED and LLOYD FRASER and PATRICIA FRASER

Defendants (Plaintiffs by Counterclaim)

DECISION ON COSTS

Judge: The Honourable Justice Patrick J. Murray

Heard: Final written submissions on Costs received from the parties on November 7th, 9th, 20th, 27th, and December 6th, 2012

Written Decision on Costs: February 28, 2013

Subject: Costs on a Quieting Action

Summary: Two Plaintiffs claimed certificates of title to separate lots, occupied by each Plaintiff. One Plaintiff, Seale was successful. The other Plaintiff, Bain was not. The successful Plaintiff

claimed costs against the Defendants. The Defendants in turn claimed costs against the Plaintiff Bain.

Issue: What are appropriate costs pursuant to Civil Procedure Rule 77? Should the length of trial be reduced by one half for cost purposes?

Result: Costs awarded to the Plaintiff Seale and to the Defendants as against the Plaintiff Bain. Value of land considered in determining “amount involved” for cost purposes. Length of trial maintained with slight reduction. Costs awarded based on 4.5 days of a 5 day trial. Discretion exercised in determining concept involved and real costs. Allocation of costs where mixed results discussed generally. Disbursements for meals and accommodations approved (in part) under wording of 2009 Rules.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***