

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Coolen v. Coolen, 2004 NSSC 1

Date: 20040105
Docket: 1204-003456
Registry: Kentville

Between:

Brenda Louise Coolen

Petitioner

v.

Robert Brian Coolen

Respondent

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Judge: The Honourable Justice Gregory Warner

Heard: In Kentville, N.S., on December 19, 2003

Subject: Divorce - Corollary relief - entitlement and quantum of spousal support

Issue: What is the onus on a spouse to establish disability and entitlement and quantum of spousal support?

Summary: Parties married in 1973 and separated in 2002. Two grown children. Early in marriage wife diagnosed with multiple sclerosis and other illnesses and ceased employment. At trial, wife testified she had been in remission for over 4 years and received no treatment nor consulted any doctors. She had “volunteered” for several months at a daycare. No medical reports were tendered as to wife’s present condition or her capacity to obtain any employment. Full self-sufficiency not in issue.

Result: Onus is on a spouse, on a balance of probabilities, to establish entitlement under at least one of the four statutory objectives of s. 15.2(6) of Divorce Act. Despite wife’s evidence that she was in

remission for a long time, and despite the absence of any medical evidence as to her present condition and its impact on her ability to contribute to her own support, spousal support was granted on the basis of the third statutory objective. Support was made subject to review within one year to receive medical evidence.

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