

IN THE SUPREME COURT OF NOVA SCOTIA (FAMILY DIVISION)

Citation: *Meldrum v. Meldrum*, 2016 NSSC 371

ENDORSEMENT

Shirley Meldrum v. Ronald Meldrum

SFH-MCA 093046

November 21, 2016

- Sandra L. Barss for Shirley Meldrum
- Ronald Meldrum on his own behalf

Request for costs of \$4,800.00 where Mr. Meldrum “effectively cancelled” a settlement conference “at the last minute”.

Decision:

Ronald Meldrum shall pay Shirley Meldrum costs of \$1,500.00 immediately.

Reasons:

1. On June 2, 2015, the parties consented to an order which required them, among other things, to:
 - a. participate in a pre-trial conference “not later than ten weeks prior to the review hearing”;
 - b. participate in a review hearing on or before August 2, 2016; and
 - c. issue a consent order for a Child’s Wish Report “as soon as possible” with the report to “be completed and filed no later than four weeks before the scheduled review hearing”.
2. On March 21, 2016 the review hearing was scheduled for July 18, 2016. Accordingly, the pre-trial conference was to occur no later than May 9, 2016. The pre-trial conference was scheduled for June 14, 2016.
3. A consent order for a Child’s Wish Report was not issued and a Child’s Wish Report was not prepared at any point.
4. On June 14, 2016, in discussing Mr. Meldrum’s interest in participating in the review hearing from Texas, Mr. Leahey was advised that Mr. Meldrum may participate by video conferencing (not by telephone) and that it would be for Mr. Leahey to arrange this.

5. Mr. Meldrum's counsel confirmed Mr. Meldrum would participate by video conference by correspondence of June 15, 2016.
6. On June 22, 2016, all involved agreed to attempt resolution by participating in a settlement conference following a judicial interview with the child. Mr. Meldrum's counsel said Mr. Meldrum would participate by video conference beginning at 2 p.m. on July 18, 2016. Ms. Meldrum's counsel confirmed this by correspondence of June 27, 2016. Mr. Meldrum's counsel confirmed this on the following day, June 28, 2016.
7. It appears Mr. Leahey left Mr. Meldrum to arrange the video conferencing with the result that this was not arranged. He contacted the court on the Friday before the settlement conference and the following Monday morning: the settlement conference was scheduled for Monday afternoon.
8. On July 18, 2016, the day of the settlement conference, I learned there were no arrangements in place for video-conferencing. I notified the parties the settlement conference would not proceed.
9. Ms. Meldrum incurred expenses of \$3,800.00 in preparing for the settlement conference. She seeks compensation for this, and an additional amount of \$1,000.00 as reimbursement for travel and meal expenses and compensation for her lost wages.
10. Shirley Meldrum filed her submissions seeking costs on August 30, 2016.
11. Costs are in my discretion.
12. Civil Procedure Rule 77.02(1) states that I "may, at any time, make any order about costs as [I am] satisfied will do justice between the parties."
13. The review hearing could not proceed in the absence of the Child's Wish Report. The parties did not attend to the order or obtaining a report.
14. Having failed to secure the Child's Wish Report, the parties agreed to participate in a settlement conference. Both parties filed settlement submissions and incurred costs for this. Ms. Meldrum incurred costs to come to Nova Scotia to participate.
15. Mr. Meldrum's failure to arrange his participation in the settlement conference by videoconference as required resulted in the conference being cancelled.

16. In *Armoyan*, 2015 NSSC 46, Justice Williams awarded costs of \$9,996.38 where a settlement conference was actually cancelled by Ms. Armoyan after the filing date for briefs and where she had not complied with the court's direction.
17. In *Aurini v. Drake*, 2016 NSSC 126, Justice Campbell awarded costs where Ms. Drake cancelled a settlement conference after both parties had filed their settlement submissions.
18. Mr. Meldrum raises factors such as his sole support of Andrew in rejecting Ms. Meldrum's claim for costs. The agreement that he receive no child support for Andrew was a term of the parties' Consent Settlement Order which placed Andrew in Mr. Meldrum's custody, as was the requirement that he pay all costs associated with Andrew's access with Ms. Meldrum.
19. Ms. Meldrum is entitled to her reasonable costs. Her claim for travel costs and lost earnings are not legal expenses and would not typically be the subject of an order for costs.
20. A substantial contribution to her reasonable costs is \$1,500.00.
21. Ronald Meldrum shall pay Shirley Meldrum costs of \$1,500.00 immediately.
22. The order for costs is enclosed.

Elizabeth Jollimore, J.S.C.(F.D.)