

Supreme Court of Nova Scotia (Family Division)

G.L.M. v. T.D., 2018 NSSC 255

ENDORSEMENT

October 5, 2018

G.L.M. v. T.D., SFSNMCA 78594

Candee McCarthy on behalf of the Applicant

Stephen Jamael on behalf of the Respondent

Decision on Costs

Reasons:

[1] A decision was delivered in this matter on June 20, 2018. I received costs submissions from G.L.M. on August 7, 2018. T.D. filed no further submissions.

[2] Costs are governed by **Civil Procedure Rule 77** which grants the court discretion to make an order for costs which will “do justice between the parties”.

In this case, where there was divided success, I directed that the parties bear their own costs barring an offer of settlement which might impact that.

[3] The applicant has brought to my attention an offer to settle dated September 18, 2017 which she describes as “a reasonable if not generous settlement proposal”. I agree that her offer was a generous one which should be reflected in a costs award.

[4] She argues that she should be awarded costs in accordance with the **Armoyan** (2013 NSCA 136) calculation: 60% of her actual legal fees and disbursement incurred prior to the offer to settle, plus 80% of her actual legal fees and disbursements after the offer to settle was presented. She has provided a summary of the legal fees and disbursements she incurred, and she has calculated the total amount payable at \$13,474.91.

[5] In the alternative, G.L.M. presents a claim under Tariff A (basic scale) which would total \$13,250.00. Included in this is the amount of \$2,000.00 for each day of trial, which ran 3 days.

[6] G.L.M. relies on a number of recent cases dealing with costs in the family law context, which stand generally for the principal that a successful party is generally entitled to a costs award. The award should represent a substantial contribution toward that party's reasonable expenses in advancing their claim.

[7] First resort should be to the Tariff of Costs and Fees in the **Civil Procedure Rules**, which may be difficult to apply where there is no amount involved. The amount involved in this case falls in the range of \$40,000.00 – \$65,000.00 referencing only retroactive support. There were other issues including parenting arrangements, for which no dollar value can be attributed.

[8] The information provided by the applicant about her legal fees and disbursements is not sufficiently detailed to determine if they are reasonable. Her alternative argument that costs should be awarded under Tariff A for the amount involved is reasonable. Using Tariff A (basic scale) results in a total of \$13,250.00. This is an appropriate costs award for a 3 day hearing, which notably does not include time spent attending settlement conferences and other court appearances.

[9] I am satisfied that I should exercise my discretion in awarding costs to the applicant. The amount I award under Tariff A (basic scale) is \$13,250.00 inclusive. This does justice between the parties, considering the time and issues involved, and the settlement offer, and it represents a substantial contribution to G.L.M.'s legal expenses.

Lee Anne MacLeod-Archer, J.S.C.(F.D.)