

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: *Nadeau v. LaKing*, 2023 NSSC 214

Date: 20230706

Docket: SFH-PSA 126545

Registry: Halifax

Between:

Simon Pierre Nadeau

Applicant

v.

Charro Lynn LaKing

Respondent

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Judge: The Honourable Justice Elizabeth Jollimore

Heard: Submissions by Kelsey Hudson for Mr. Nadeau on June 14, 2023
Submissions by Christopher I. Robinson for Ms. LaKing on June 30,
2023

Summary: Respondent awarded costs of \$19,750 based on Tariff A for a 1.5 day application where she was the more successful party and where the Applicant was awarded less than he offered and less than the Respondent offered.

Key words: Costs

Legislation: *Civil Procedure Rules, Tariff A*

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DECISION. QUOTES MUST BE FROM THE DECISION, NOT THIS
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Charro LaKing

Respondent

Judge: The Honourable Justice Jollimore

Heard: June 14, 2023 and June 30, 2023, in Halifax, Nova Scotia

Counsel: Kelsey Hudson, for the Applicant
Christopher I. Robinson, for the Respondent

Based on total costs of \$26,261.16 for 2 days of trial, Ms. LaKing wants costs of \$19,750. Mr. Nadeau claims costs of the same amount.

By the Court:

Decision:

[1] Simon Nadeau will pay Charro LaKing \$19,750 no later than August 4, 2023.

Reasons:

[2] Simon Nadeau asked that real and personal property which he owned with Charro LaKing, or which was acquired during his relationship with her, be divided. His claims were under the Partition Act and the common law of unjust enrichment. My decision on his claim is reported at 2023 NSSC 172.

[3] Each party claims they were the more successful party.

[4] The hearing took 1.5 days and involved the parties and 4 other witnesses, 2 of whom testified by videoconference.

[5] The parties agreed on 10 undisputed points. The 3 broad issues were:

- a. The value of the jointly owned home;

- b. Whether Ms. LaKing was entitled to an unequal division of the jointly owned home's value; and
- c. The amount of any unjust enrichment Ms. LaKing received as a result of Mr. Nadeau's work on the New Brunswick cottage.

[6] The final issue was the division of personal property. Neither party offered sufficient evidence for me to decide, so I provided them with a method for dividing these items. Neither party can claim success on this point.

[7] Overall, Ms. LaKing was more successful than Mr. Nadeau.

- a. Her value for the home was accepted which reduced her payment to Mr. Nadeau by roughly \$66,100.
- b. Mr. Nadeau was ordered to repay the \$20,000 RRSP loan from Ms. LaKing.
- c. Ms. LaKing was ordered to pay Mr. Nadeau \$6,000 for his work on the cottage – not the \$25,000 he sought.

[8] Mr. Nadeau made 7 settlement offers. As best can be quantified, each would have seen Ms. LaKing pay him more money than he received as a result of my decision.

[9] Ms. LaKing made 2 settlement offers. Her second offer is more acceptable than the result Mr. Nadeau received at trial.

[10] By either measure, Ms. LaKing was the more successful party at trial.

[11] In calculating their costs claims, each party applied Tariff A for a 1.5-day trial and concluded that the appropriate amount to be awarded, based on the amount involved, was \$19,750. I accept that this is the proper approach and order Mr. Nadeau to pay Ms. LaKing \$19,750 no later than August 4, 2023. I have drafted the Order, which I enclose.

Elizabeth Jollimore, J.