SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION
Citation: *Conrod v. Cooper*, 2025 NSSC 197

Date: 20250612
Docket: SFH HFD No. 1201-074927
Registry: Halifax

Between:

Andrea Conrod

Applicant

v.

Bradley Cooper

Respondent

Judge:	The Honourable Justice C. LouAnn Chiasson
Heard:	September 5 and October 22, 2024, in Halifax, Nova Scotia
Final Written Submissions:	December 13, 2024
Counsel:	Brian Bailey for the Applicant Katie Brady for the Respondent

By the Court:

Introduction

[1] Andrea Conrod and Bradley Cooper lived together for nine years and have two children. They were married for a very brief period of time at the end of their cohabitation, separating less than seven months after the wedding. The parties attended a settlement conference where they addressed all issues related to parenting of the two children. Ms. Conrod continued to have primary care of the children and Mr. Cooper has specified parenting time.

[2] The court proceeding involved five issues:

1) divorce;
2) retroactive support- child and spousal;
3) prospective child support;
4) prospective spousal support; and
5) property division.

[3] Subsequent to the hearing in September, counsel for Mr. Cooper requested the opportunity to file fresh evidence. The necessity for the court to hear additional evidence was not contested by counsel for Ms. Conrod. A further hearing date was set in October and submissions were received by counsel up to December 13, 2024.

[4] The new evidence related to the change in residence of Ms. Conrod. Mr. Cooper asserts that the Ms. Conrod had moved in with her partner prior to the hearing, contrary to her testimony. He further asserts that Ms. Conrod had changed the children's school to the district where she and her partner were residing the day after the hearing concluded. Ms. Conrod does not dispute that she moved in with her partner but asserts that she made that decision the evening following the hearing in September.

[5] The fresh evidence is relevant to Ms. Conrod's credibility.

ISSUE #1- Divorce

[6] The jurisdictional requirements to grant a divorce have been met. The parties disagree on the date of separation. Neither party addresses the discrepancy in any detail in their evidence.

[7] Ms. Conrod's Petition notes the date of separation to be April 3, 2022.

[8] Mr. Cooper's Answer indicates the date of separation is July 1, 2022. The affidavit filed on behalf of Mr. Cooper indicates the date of separation to be April 2022 (Ref Exhibit 5, paragraph 14).

[9] Based on the scant evidence before the court I confirm the date of separation to be April 3, 2022. The parties have been separated for over one year without possibility of reconciliation. A Divorce Order will issue.

ISSUE #2- Retroactive Support

[10] Ms. Conrod is requesting retroactive child and spousal support from Mr. Cooper. Her counsel suggests that $22,937 is owing in retroactive support.

[11] Mr. Cooper indicates that he actually overpaid support from the date of separation to December 2023. He calculates the overpayment to be $15,905.

[12] Counsel for both parties have used the income level for the years in question (2022- 2023). They have not used the previous year's income to establish retroactive support due from Mr. Cooper. I will use the method accepted by both parties in my calculations.

[13] In relation to spousal support, the court must determine the appropriate income of both parties. The Statement of Income filed by Ms. Conrod reveals zero income. She indicated that she had been employed with NSLC as a casual clerk but ceased working there as it involved evening shifts and she had no childcare. She then indicated that she was a clerk at a physioclinic but again left that position as she required daycare.

[14] Mr. Coooper testified that his mother provided child care to the children prior to separation as needed. He indicated that she was prepared to continue to provide free child care for the children.

[15] Ms. Conrod indicated that Mr. Cooper's mother was not fit to care for the children post separation because of her smoking and the lack of ongoing relationship between Ms. Conrod and Mr. Cooper's mother. There was no specific evidence provided by Ms. Conrod to show that Mr. Cooper's mother was unfit to continue to care for the children.

[16] There is no evidence to suggest that the grandmother commenced smoking after the separation, nor was their evidence led as to her smoking in the presence of the children. Ongoing childcare by the grandmother may have been a viable option. It is reasonable that a willing grandparent that has provided childcare to the children pre separation may be able to care for the children post separation.

[17] Mr. Cooper's suggestion that his current partner provide child care was unreasonable. They do not reside close to the children. That option was not reasonable or viable.

[18] The discussions between Ms. Conrod and Mr. Cooper related to child care were limited. There was one option for child care presented to Mr. Cooper at a cost of $1,970 per month. Mr. Cooper suggested his mother could provide child care or there were cheaper options available including one for approximately $700 per month. Ms. Conrod did not respond to the other daycare option suggested by Mr. Cooper. She indicated that she did not respond as she thought she may be moving to Cape Breton with the children.

[19] It is difficult to reconcile the position of Ms. Conrod. If she was moving to Cape Breton, child care options for Cape Breton needed to be explored. If she was remaining in HRM, there should have been a discussion about reasonable, available child care options here. That did not occur.

[20] Ms. Conrod's decision to leave her employment as a result of lack of childcare was not reasonable in the circumstances. The children's grandparent had provided childcare prior to separation and was prepared to continue to do so. Alternatively, there ought to have been far more significant discussions related to paid childcare. To provide only one option related to childcare as insufficient.

[21] Income may be imputed to a party pursuant to section 19 of the *Federal Child Support Guidelines*, SOR/ 97-175.

[22] The parties referenced the decisions in *Gates v Gates*, 2023 NSSC 188; *Kinsella v Mills*, 2020 ONSC 4785; and *Gillespie v. Gillespie*, 2024 ONCJ 124. Additionally, I have considered the following cases on imputed income: *Smith v Helppi*, 2011 NSCA 65; *Drygala v. Paul*, 2002 Canlii 41868 (Ont CA); *Day v Day*, 2019 NSSC 116; *DG v JG*, 2021 NSSC 57; and *Staples v Calendar*, 2010 NSCA 49.

[23] In determining whether the impute income, the court must ground any such finding based on an objective assessment of the evidence. The burden rests on Mr. Cooper to establish that income should be imputed to Ms. Conrod in these particular circumstances.

[24] Ms. Conrod had been employed in the years leading up to separation. In the three years prior to the trial, her income fluctuated between $16,458 and $17,100.

[25] Ms. Conrod's affidavit states she was "making efforts to return to school for a 4-year course as a counsellor which is available on-line through Dalhousie University of cape [sic] Breton University." The trial commenced in early September. There were no concrete plans in place for the school year 2024-2025. Ms. Conrod provided no further information related to any educational courses, employment opportunities, or job search.

[26] I find it reasonable to impute income to Ms. Conrod in the amount of $16,000 as requested by Mr. Cooper.

[27] Retroactive spousal support is claimed by Ms. Conrod for 2022- 2024. I was provided with the Divorcemate calculations by both counsel covering various time frames. The calculations ought to have included the section 7 expenses payable. They did not. The calculation related to spousal support payable is flawed. Nevertheless, both parties based their calculations on the income levels of the parties without consideration of the section 7 expenses.

[28] In 2022, Mr. Cooper's income was $129,865 and Ms. Conrod's was 16,678. Based upon those figures, the mid range of spousal support is $1,070 with child support of $1,748. Support was payable for the 9 months post separation in 2022, resulting in an amount of child and spousal support owing of $9,630 in spousal support and $15,732 in child support. The total owing would have been $25,362.

[29] Mr. Cooper transferred $31,753.30 to Ms. Conrod from April 2022 to December 2022. His obligation was $25,362 in accordance with the guidelines. This resulted in an overpayment in 2022 of $6,391.30. Additionally, Mr. Cooper would have had the requisite tax deduction for the spousal support paid in the amount of $9,630.

[30] In 2023, Mr. Cooper's income was $84,531.96. Imputing income of $16,000 to Ms. Conrod results in spousal support of $41 per month and child support of $1,186. In 2023, Mr. Cooper would owe $492 in spousal support and $14,232 in child support. He paid $15,200 resulting in an overpayment of $968.

[31] The parties reached agreement in January 2024 related to child support and so no retroactive child support is due for 2024. As it relates to spousal support, and utilizing the available income figures for the parties, the amount payable in spousal support would be $492.

[32] In total, Mr. Cooper's overpayment in 2022 and 2023 total $10,598 ($9,630 and $968). Spousal support potential owing in 2024 would be $492. Deducting the potential spousal support owing results in an overpayment of $10,106. This overpayment must be adjusted in relation to retroactive section 7 expenses and extracurricular expenses owing.

[33] It would appear as though Mr. Cooper does not contest that certain expenses for the children ought to be shared equally. He agrees to share the following retroactive expenses: hockey ($440), soccer ($103.30), music ($225), and a portion of the Halifax Recreation expenses. Ms Conrod is seeking to recover 50% of $934.15 and Mr. Cooper is agreeable to sharing $369.51 in Halifax Recreation expenses. Submissions for Mr. Cooper do not address the additional expenses of ballet, gymnastics and jui jitsu.

[34] Actual expenses noted above are to be shared equally between the parties. An exact calculation cannot be undertaken as the amounts for ballet, gymnastics and jui jitsu are not confirmed.

[35] Mr. Cooper asserts that he owes a total of $639.28 in extracurricular expenses for the children. To this figure, one must add 50% of the cost of ballet, gymnastics and jui jitsu. The overpayment made by Mr. Cooper would be adjusted

by the retroactive expenses owed for the children. This amount is to be determined following invoices and calculation prepared by counsel for Ms. Conrod.

ISSUE #3- Child support- prospective

[36] Ms. Conrod is seeking prospective child support be determined. Mr. Cooper states the issue of prospective child support was addressed by the Consent Order.

[37] The Consent Order issued March 1, 2024, provides for a monthly table amount of child support of $1,304 payable in bi-weekly installments. The Order also contains a clause to adjust the table amount of support commencing in June 2024 based upon the parties' incomes from the previous year. There is no necessity for the court to interfere with the Consent Order reached at a settlement conference as it relates to the table amount of child support on a prospective basis.

[38] As it relates to the prospective section 7 expenses, the Consent Order provided these expenses were to be divided with Mr. Cooper paying 75% of such expenses "until the income of Andrea Shirley Conrod can be determined by the court…"

[39] Pursuant to paragraph 26 of the Order (childcare and health related expenses) were to be shared proportional to income. As noted above, income is imputed to Ms. Conrod in the amount of $16,000. Based on Mr. Cooper's income of $84,532, Mr. Cooper is to pay 84% of any such expense.

[40] The Consent Order also provided for sharing of other extracurricular expense. The parties needed to agree upon any such expense, which agreement would not be unreasonably withheld. Further Ms. Conrod was obligated to provide receipts to Mr. Cooper and payment was to be made by Mr. Cooper within 30 days of receipt of invoices.

[41] The only issue left for determination following the settlement conference was the determination of Ms. Conrod's income in relation to section 7 expenses for child support. Having imputed income of $16,000 to Ms. Conrod, there are no further issues of child support to be addressed. The Consent Order sets out appropriate child support obligations subject only to the proper proportioning of section 7 expenses.

ISSUE #4- Spousal support- prospective

[42] Ms. Conrod is seeking ongoing spousal support. Counsel for Ms. Conrod concedes that any further entitlement to spousal support would be premised on the basis of the income differentials between the parties (i.e. non-compensatory support).

[43] Entitlement in non-compensatory claims was defined in *Bracklow v. Bracklow*, 1999 1 S.C.R. 420 (S.C.C.). Non-compensatory support is meant to address the disparity between the needs and means of the parties arising from the marriage breakdown.

[44] In order to establish a claim to non-compensatory support, the court must examine the means, needs and circumstances of each of the parties. Credibility is relevant to the determination of the circumstances of each party.

[45] Credibility is the assessment of whether the evidence is reliable. The assessment is based on a balance of probabilities- is the evidence more likely than not to be true. Determining credibility is not a scientific exercise. The court must take into account the totality of the evidence in determining whether to find all or part of a witness' testimony to be credible.

[46] In assessing credibility I have taken into account the principles enunciated in the following decisions: *Baker-Warren v. Denault*, 2009 NSSC 59 (N.S.S.C.); *Wells v King*, 2015 NSSC 232, *Hustins v. Hustins*, 2014 NSSC 185; *Gill v Hurst*, 2011 NSCA 100, and *F.H. v McDougall*, 2008 SCC 53, and the myriad of decisions that followed. I have also taken into account the totality of the evidence in the case before me.

[47] The court has been provided with financial information as well as information related to the personal circumstances of Ms. Conrod and Mr. Cooper. The self reporting of the parties must be accurate in order for the court to properly assess and quantify entitlement and quantum of spousal support.

[48] The most prevalent factor in assessing credibility is determining any inconsistency in the evidence. This can be internal inconsistency (when a witness contradicts themselves), or external inconsistency (when evidence of another witness is contradictory).

[49] The evidence provided by Ms. Conrod was inconsistent and not credible. I have considered the totality of the evidence but will highlight a few of the inconsistencies in the evidence:

1) Ms. Conrod indicated that she resided with her grandparents at the trial on September 5th. She indicated that she had no intention of moving in with her partner while she pursued her education.
2) Ms. Conrod testified on September 5th that her belongings were being stored at her mother's.
3) Ms. Conrod testified that the children would be attending their previous school on September 6th and the sole reason they did not attend on September 5th was the lack of appropriate child care.

[50] These should be simple factual issues- Where do you live? Where are your belongings? Where are the children attending school? The difficulty with Ms. Conrod's responses is that evidence provided by Mr. Cooper was contradictory.

[51] At the conclusion of the hearing on September 5th, Ms. Conrod was reminded that the existing consent order provided for joint decision making in relation to major developmental decision of the children. These decisions would include any educational decisions (i.e. change in schools) and potential relocation of the children. Despite these comments, Ms. Conrod made the unilateral decision sometime the evening of September 5th to relocate with the children to her partner's home and to change their schools. She did not have the consent of Mr. Cooper to do so.

[52] Documentation was provided to confirm that a storage unit containing Ms. Conrod's belongings was moved to her partner's new residence when it was purchased in August- prior to the hearing. The storage unit contained her items, the children's items and furnishings. These items were removed from the storage unit and placed in the home or the garage of her partner in August.

[53] Evidence confirmed that the children's beds were set up in their bedrooms prior to the hearing on September 5th. Ms. Conrod argued that some of the items remained in totes in the garage. She testified that since all of the belongings were

not unpacked immediately, that indicated that she had not moved in with her partner. That assertion is not credible.

[54] Ms. Conrod enrolled the children in school in the district where her partner resided the day after the hearing, September 6th. When Mr. Cooper provided evidence from the storage company (regarding the storage unit) and evidence related to the change in the children's school, Ms. Conrod subsequently testified that she was convinced to move in with her partner hours after the hearing on September 5th.

[55] The evidence provided by Ms. Conrod is not credible. Counsel for Ms. Conrod argues that her decision to move in with her partner is not relevant. Cohabitation and the sharing of expenses is relevant to spousal support, particularly when the spousal support is based upon non-compensatory factors.

[56] A finding of credibility is also relevant to the assertion of Ms. Conrod that she is unable to seek employment. It is relevant to her evidence related to efforts to find reasonable child care. If her evidence lacks credibility, how is the court to rely on her self reporting?

[57] I find as a fact that Ms. Conrod intended to reside with her partner when he purchased his residence on August 22nd. I find as a fact that Ms. Conrod intended to enrol the children in the school district where her partner resided prior to the hearing on September 5, 2024. I find as a fact that Ms. Conrod provided contrary evidence to the court in order to bolster her request for spousal support.

[58] The request for ongoing spousal support is denied. If there was any ongoing entitlement to support based on a non-compensatory claim, that entitlement is fully satisfied by the overpayment of support as calculated above.

[59] Having noted that the overpayment of support by Mr. Cooper is to be considered as extinguishing any prospective spousal support, the overpayment cannot also be factored into the property division. To do so would result in double accounting of those funds. The overpayment extinguishes any entitlement to spousal support and will not be included in the property division calculation noted below.

ISSUE #5- Property Division

[60] The parties sold the matrimonial home. The proceeds of sale are held in trust. Each party is seeking various offsets to an equal division of the proceeds. The offsets are referenced by counsel on behalf of each party in the pre and post trial submissions. These adjustments do not include any adjustment related to retroactive support as that issue has already been addressed herein.

[61] Mr. Cooper acknowledges that he owes the following monies: 50% of the mortgage payments to the date of the sale of the home ($2,862.73).

[62] Ms. Conrod is seeking the following reimbursements:

1) the RBC debt in Mr. Cooper's name ($3,500);
2) oil top up in the amount of ($800); and
3) cost of pumping out the septic system ($495).

[63] Mr. Cooper is seeking the following adjustments:

1) a credit to him related to household contents ($5,000); and
2) Nova Scotia Power bill ($888.72).

[64] I will review each of the requested adjustments. The first requested adjustment relates to the RBC debt. This was a debt that was solely in Mr. Cooper's name. It had been unpaid for some period of time and was in collections by the time the parties separated.

[65] In order to be considered a matrimonial debt, it must be proven that the funds were utilized for family purposes. The statements for this account show some payments related to a phone which Mr. Cooper asserts is the phone used by Ms. Conrod.

[66] A review of the statements show that the balance accumulated related to $1,530.65 in purchases and $1,038.44 related to cash advances. The cash advance portion of the debt accrues an additional 3% interest over and above the interest on purchases. There was no evidence whatsoever in relation to what the cash advances were used for and whether it was for family purposes. The higher interest rate on these advances would increase the balance owing faster.

[67] The balance at the time of separation was approximately $2,569.09. Of this, over 40% relates to cash advances made by Mr. Cooper. Based on the evidence before me, the request to consider the RBC debt as matrimonial is denied.

[68] The second adjustment relates to the oil top up. Neither party provided evidence as to the amount in the oil tank at the time of separation. It is possible that it was empty, partially full or full. I am not prepared to indicate the percentage of the oil utilized by Ms. Conrod post separation. The oil top up in the amount of $800 is allowed.

[69] The septic system pump out is the third adjustment requested. Likewise, there is no evidence as to the cost differential if the septic was partially full or full. There would be some septic waste needing to be pumped out from the time the parties were living there as a family prior to separation. As with the oil tank, the septic pump out is allowed.

[70] The fourth adjustment requested relates to the division of household contents. Evidence shows that Mr. Cooper received his personal possessions (i.e. clothing), a few tools and a bbq. Ms. Conrad retained the rest of the items. Ms. Conrad indicates the household contents were divided by consent.

[71] In the absence of further evidence related to valuation, the court is at a loss to determine the relative value of contents retained by each person. A nominal adjustment for household contents is appropriate given the minimal items removed by Mr. Cooper. An adjustment of $2,500 is to be included in the property division.

[72] The last adjustment relates to the Nova Scotia power bill. The bill was paid out in full at the time of closing. Between separation and the sale of the home a further $888.72 in power costs were incurred by Ms. Conrod. She will be solely responsible for those costs and an appropriate adjustment is to be made.

[73] The resulting property division after adjustments is set out below:

DESCRIPTION	VALUE	MS. CONROD	MR. COOPER
Proceeds remaining from sale of home (after	$109,781.67	$54,890.84	$54,890.83

advances to both parties)			
Mortgage payments	$2,862.73		($2,862.73)
Household contents	$2,500	($2,500)	
Oil top up	$800- to be divided 50/50		($400)
Septic pump out	$495- to be divided 50/50		(247.50)
NS Power bill	$888.72	($888.72)	
Total adjustments		($3,388.72)	($3,510.23)
Differential			(121.51)
		$55,012.35	$54,769.32

[74] Any accumulated interest in relation to the proceeds of sale should be divided equally between the parties.

CONCLUSION

[75] A divorce is granted and a Divorce Order will issue.

[76] The Corollary Relief Order will contain the provisions agreed to at the settlement conference related to parenting and ongoing child support. The only amendment to the child support provision is to set the imputed income of Ms. Conrod at $16,000. All other terms remain valid.

[77] The spousal support claim of Ms. Conrod is resolved fully in relation to support payments already received.

[78] There is no further retroactive adjustment to child or spousal support based on the extinguished claim to spousal support.

[79] The property division includes the payout to each of the parties as outlined above. Each party will thereafter retain all property in their possession and/ or their name without further claim by the other.

Chiasson, J.