

**SUPREME COURT OF NOVA SCOTIA**  
**FAMILY DIVISION**

**Citation:** *Byrne v. Carlow-Byrne*, 2026 NSSC 105

**Date:** 20260417

**Docket:** Tru No. 1207-005585

**Registry:** Truro

**Between:**

Rodney James Byrne

Petitioner

v.

Karen Louise Carlow-Byrne

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Terrance G. Sheppard

**Heard:** March 25, 2026, in Truro, Nova Scotia

**Written Decision:** April 17, 2026

**Subject:** Unequal Division on Matrimonial Property

**Summary:** Despite the fact that the matrimonial home:

(a) was owned Karen Carlow-Byrne 10 years prior to her 15-year relationship with Ronald Byrne;

(b) was divided once already in Karen Carlow-Byrne's previous divorce, and

(c) Karen Carlow-Byrne was responsible for the payment of the mortgage, property taxes and house insurance,

This was not the convincing evidence needed to determine that an unequal division was unfair or unconscionable.

**Issue:** Should the matrimonial home be divided unequally in Karen Carlow-Byrne's favour?

**Result:** The sale proceeds of the matrimonial home were divided equally between the parties.

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**Written Release:** April 17, 2026

**Counsel:** Allison Kouzovnikov for Rodney Byrne  
Karen Carlow-Byrne, unrepresented

**By the Court:**

**OVERVIEW**

[1] The main issue during the divorce trial was whether Rodney Byrne was entitled to a share of the sale proceeds from 22 Empire Loop, Truro, Nova Scotia. Karen Carlow-Byrne argued that the home was not matrimonial property. Alternatively, she argued that there should be an unequal division in her favour under s.13 of the *Matrimonial Property Act*, R.S.N.S. 1989, c.275.

[2] The parties married on August 6, 2016. They had been living common-law since 2009. The parties separated in July of 2024.

[3] They have one child together, born November of 2009.

**ISSUES**

[4] The issues are:

- a. Child support both retroactive and prospective;
- b. Division of the sale proceeds from 22 Empire Loop, Truro, Nova Scotia; and
- c. Personal property.

**CHILD SUPPORT**

[5] Prospective child support is based on Rodeny Byrne's current income and not his 2025 income. He commenced full time work in November of 2025 and had been on CPP Disability Benefits before that. Given there was no claim for retroactive support by Karen Carlow-Byrne, none will be ordered.

[6] In 2024, Rodney Byrne's sole source of income was CPP Disability Benefits, in a total amount of \$14,185.68. In 2025, he started to get back into the workplace and earned a total of \$46,905 between CPP Disability Benefits and employment income. Rodney Byrne started full-time work in November of 2025 and anticipates his 2026 income to be \$95,533.

[7] From July of 2024 to February of 2026 inclusive, Rodney Byrne paid child support to Karen Carlow-Byrne totalling \$3,910. At times, Karen Carlow-Byrne made various comments about the retroactive amounts such as "The claim that he paid \$200 a month since then is a lie," but at trial she agreed that she had no information to dispute the amounts Rodney Byrne says he paid.

[8] Karen Carlow-Byrne spent very little time on child support. She did not dispute his income and never made a claim for retroactive child support. Her only request was that child support be based on the Child Support Guidelines and be "the maximum allowable amount."

[9] Ms. Kouzovnikov very helpfully provided charts showing what the retroactive support would be using two methods: the current year's income and the previous year's income. These charts are as follows:

Period	Base Year	Income	Per Mo	Per Period	Paid Per Period	Over/(Under) Payment	Comment:
July 1/24– June 30/25	2024	\$14,186	\$55.12	\$661.44	\$2,310.00	\$1,648.56	Using 2017 Table
July 1/25– Sept 30/25	2025	\$46,905	\$399.24	\$1,197.72	\$600.00	\$(597.72)	Using 2017 Table
Oct 1/25– Feb 28/26	2025	\$46,905	\$392.77	\$1,963.85	\$1,000.00	\$(963.85)	Using 2025 Table
						<b>\$86.99</b>	

Period	Base Year	Income	Per Mo	Per Period	Paid Per Period	Over/(Under) Payment	Comment:
July 1/24– June 30/25	2023	\$14,937	\$67.74	\$812.88	\$2,310.00	\$1,497.12	Using 2017 Table
July 1/25– Sept 30/25	2024	\$14,186	\$55.12	\$165.36	\$600.00	\$434.64	Using 2017 Table
Oct 1/25– Feb 28/26	2024	\$14,186	\$-	\$-	\$1,000.00	\$1,000.00	Using 2025 Table
						<b>\$2,931.76</b>	

[10] One method creates an overpayment of \$87; the other, \$2,932. Rodney Byrne is not seeking repayment of this child support.

[11] Either method is acceptable to calculate retroactive child support. Here, where there is no previous court order requiring annual disclosure or annual adjustment of child support, using the current year's income is more appropriate as it bases child support more closely on the actual income earned at the time.

[12] The only change I would make to Rodney Byrne's current income chart is to have the child support based on an income of \$95,533 start as of December 1, 2025, as Rodney Byrne commenced employment in November of 2025. That would produce a small underpayment of \$1,176:

Period	Base Year	Income	Per Mo	Per Period	Paid Per Period	Over/(Under) Payment	Comment:
July 1/24– June 30/25	2024	\$14,186	\$55.12	\$661.44	\$2,310.00	\$1,648.56	Using 2017 Table
July 1/25– Sept 30/25	2025	\$46,905	\$399.24	\$1,197.72	\$600.00	\$(597.72)	Using 2017 Table
Oct 1/25– Nov 1/25	2025	\$46,905	\$392.77	\$785.54		\$(785.54)	Using 2025 Table
Dec 1/25– Feb 28/26	2026	\$95,533	\$814.00	\$2,442.00	\$1,000	(1,442.00)	Using 2025 Table
						<b>\$1,176.70</b>	

[13] However, given that there is no blameworthy conduct on Rodney Byrne in that he has voluntarily paid child support since the parties separated in July of 2024, often above what his income would have required, and there has never been any claim for retroactive child support from Karen Carlow-Byrne, I decline to award any retroactive amount of child support.

[14] Rodney Byrne requests that his prospective child support be based on his 2025 income of \$46,905. Karen Carlow-Byrne requests it be based on his current income of \$95,533. I agree with Karen Carlow-Byrne. Prospective child support should be based on current income. His current income is \$95,533, and child support is \$814, commencing March 1, 2026.

[15] Rodney Byrne requests that the parties use the Administrative Recalculation of Child Support Program. Karen Carlow-Byrne also requested this although she incorrectly assume the Maintenance Enforcement Program would recalculate support. Therefore, the standard provisions for administrative recalculation program will be included in the Corollary Relief Order.

### **PROPERTY DIVISION**

[16] The home at 22 Empire Loop, Truro, Nova Scotia is a matrimonial home and the sale proceeds shall be divided equally between the parties.

[17] The parties agree that the only property to be divided is the proceeds of sale from matrimonial home. Rodney Byrne had made a consumer proposal in 2022 for which he is still paying a monthly amount. Certainly, the balance owing on that as of the date of separation could have been claimed as a matrimonial debt; however, he is not making a claim for it.

[18] Karen Carlow-Byrne sold 22 Empire Loop, and it closed on April 28, 2025. She instructed the realtor not to list the property publicly for sale and to seek a private sale. The property was sold to the realtor's brother. The deed she signed incorrectly identified that she did not have a spouse.

[19] Karen Carlow-Byrne emailed Rodney Byrne a letter dated April 28, 2025, that was purported to be from her divorce lawyer, Dianne E. Paquet, regarding the sale of the property. However, Ms. Paquet did not author the letter. Until he received this email, Rodney Byrne had no idea the property had been listed for sale nor that it had been sold.

[20] Karen Carlow-Byrne insisted that she did nothing wrong, that she understood that she did not have a spouse and she has argued throughout this proceeding that 22 Empire Loop was not a matrimonial home. As it is not necessary at this time, I will not make any findings of credibility on this point.

[21] The home sold for \$174,886.87, and net proceeds to Karen Carlow-Byrne were \$158,411.49. I granted an *Ex-Parte* Preservation of Assets Order on May 1, 2025. The following week, after hearing from Karen Carlow-Byrne, I ordered the transfer of \$87,500 to the trust account of Mr. Byrne's lawyer and the release of the remaining funds to Karen Carlow-Byrne.

[22] Most of the facts in relation to the property are not in dispute:

- a. The property was purchased by Karen Carlow-Byrne prior to her marriage to Rodney Byrne;

- b. The property had already been divided in Karen Carlow-Byrne's previous divorce;
- c. Rodney Byrne moved into the property either in February of 2009 or May of 2009;
- d. Title to the property always remained solely in Karen Carlow-Byrne's name;
- e. Karen Carlow-Byrne paid the mortgage, property taxes, and insurance for the property.

[23] Rodney Byrne says that all his income, whether it was CPP Disability Benefits or employment income, went into the household and he paid other expenses such as internet, food, vehicles, and funded some of the renovations and maintenance. His testimony is also that he put a lot of sweat equity into the property. While Karen Carlow-Byrne minimizes Rodney Byrne's contribution to the household property, she does not dispute that he contributed.

[24] Karen Carlow-Byrne could not articulate any rational basis for excluding the property as matrimonial. As soon as the parties married on August 6, 2016, they came under the *Matrimonial Property Act* and all the assets they had at that time

were dragged into the marriage with them. It further created a strong presumption of an equal sharing of those assets that can only be ousted under s.13.

[25] Karen Carlow-Byrne says that Rodney Byrne verbally renounced any claim to the property throughout the relationship. Even if I accepted that evidence, a verbal declaration by Rodney Byrne in relation to real property that was never reduced to writing and that was made without any independent legal advice would not be binding on him.

[26] S.13 of the *Matrimonial Property Act* allows a court to make an unequal division of matrimonial or non-matrimonial assets where an equal division would be unfair or unconscionable. Thirteen factors are listed for the court's consideration.

[27] In *Cunningham v. Cunningham*, 2017 NSSC 244, Justice Forgeron at paragraph 27 provides a very helpful list of legal principles when dividing assets under the *Matrimonial Property Act*. The Nova Scotia Court of Appeal, in affirming Justice Forgeron's decision, adopted the list and summarized it at paragraph 13<sup>1</sup>:

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<sup>1</sup> *Cunningham v. Cunningham*, 2018 NSCA 63.

- The “predominate concept” under the *Matrimonial Property Act* “is the recognition of marriage as a partnership with each party contributing in different ways.”
- The “mere fact” of an asset being acquired prior to marriage does not remove it from being presumptively subject to equal division.
- “convincing evidence” is required to establish that an equal division would be unfair or unconscionable.
- The words “unfair” or “unconscionable” which have no “precise meaning,” evoke “ethical considerations and not merely legal ones.”
- The court is to consider all the circumstances and not merely the material contributions of each party.
- In assessing an unequal division claim, the court must look at “the timing of the contribution”, “the parties’ use of the asset”, “the length of the marriage”, “the significance of the asset relative to the entire pool of matrimonial assets” and “the age and stage of the parties at separation.”

[28] These principles have been reiterated by the court in a number of decisions.<sup>2</sup>

[29] Karen Carlow-Byrne says that she purchased the home in 1998 and took possession in 2001. This is somewhat contradicted by the affidavit of Derik Graham Jordan, who states that he was present when Karen Carlow-Byrne purchased the property in 2000. In any event, Karen Carlow-Byrne owned the property approximately ten years prior to Rodney Byrne moving into the home in either February or May of 2009. The parties resided there together for at least fifteen years.

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<sup>2</sup> See Justice Moreaux’s decision in *F.C. v. S.C.*, 2025 NSSC 422, Justice Chaisson’s decision *N.B. v. S.O.*, 2023 NSSC 216, Justice MacKeigan’s decision in *Calder v. Calder*, 2022 NSSC 146, and Justice Van den Eynden’s decision in *Wolfson v. Wolfson*, 2023 NSCA 57 starting at paragraph 89.

[30] It is not contested that Karen Carlow-Byrne was primarily responsible for the mortgage, property taxes, and insurance on the property. However, Rodney Byrne says that he contributed in other financial and non-financial ways to the home. He says that all his income throughout those fifteen years went to the household. I accept Rodney Byrne's evidence on this. While Karen Carlow-Byrne tries to minimize Rodney Byrne's contribution to the household and to the property, it is not a case where she is alleging that his income was diverted away from the household; for example, toward a non-matrimonial asset such as a business owned by Rodney Byrne, towards gambling, etc. The parties had modest incomes throughout the relationship and neither had any substantial savings or assets, outside of the property in question, when the marriage ended. I am satisfied that all their income was required to maintain the household. Rodney Byrne's contribution to other household expenses freed up Karen Carlow-Byrne's income to be put toward the direct expenses of the property.

[31] I also recognize that Karen Carlow-Byrne had previously divided the property with her ex-husband in that divorce proceeding. However, these factors fall far short of the convincing evidence required for an unequal division. The date and manner of acquisition of the property and the contributions made by the

spouses to the marriage, falls far below what would be needed to convince me that an equal division is unfair or unconscionable. In other words, despite:

- a. Karen Carlow-Byrne having previously divided the property with her ex-husband;
- b. Karen Carlow-Byrne having owned the property for approximately ten years prior to the fifteen-year relationship with Rodney Byrne; and
- c. the fact that Karen Carlow-Byrne was directly responsible for the payment of the mortgage, taxes, and insurance on the property, an equal division would not be unfair or unconscionable.

[32] There was quite a bit of evidence led by Karen Carlow-Byrne about the poor condition and damage done to the property. She says that Rodney Byrne caused or contributed to the damage through his actions, neglect, or refusal to maintain the property. It was unclear to me the purpose of this evidence, other than perhaps a claim for unreasonable impoverishment under s.13(a) of the *Matrimonial Property Act*. In any event, Rodney Byrne denies that his actions, neglect, or refusal to maintain the property unreasonably impoverished the property. The specific damages alleged by Karen Carlow-Byrne are:

- a. Unrepaired roof damage – the roof was damaged by a hurricane. The parties were paid \$1,863.26 by the insurance company which the parties did not use to fix the roof;
- b. Rotting floors around the sliding door – there was no allegation that this was caused by anything Rodney Byrne did. And, in fact, he fixed two of the three entryways that were rotted out;
- c. Mold in the air ducts – Rodney Byrne says that he cleaned out the air ducts, disinfected them, and reinstalled them in 2024. Karen Carlow-Byrne says he did so negligently. I do not have any expert evidence on whether Rodney Byrne did this work properly or negligently. I accept his evidence that any issues with mold in the air ducts was not his fault;
- d. Broken refrigerator – this is an odd claim by Karen Carlow-Byrne in that she does not allege that Rodney Byrne in any way damaged the refrigerator. She simply notes that she had to replace the refrigerator shortly after Rodney Byrne left the home because it was leaking freon. Rodney Byrne says that, prior to his moving out, Karen Carlow-Byrne complained that she could smell refrigerant, but he could find nothing wrong with the refrigerator;

- e. Insulation under the home/water meter/water main – Rodney Byrne says that he removed insulation from under the home and moved the water meter so that it would not get damaged when he removed an old water tank and installed a new one. Karen Carlow-Byrne contends that this was done improperly and illegally and caused the damage to the home. Again, I have no expert evidence on this, and I accept Rodney Byrne’s evidence on this point;
- f. Holes in the wall – Rodney Byrne admits putting one hole in the wall of approximately six inches around.

[33] I accept Rodney Byrne’s evidence regarding the damage that Karen Carlow-Byrne is alleging. However, even if I accepted Karen Carlow-Byrne’s evidence in its entirety, I find that this is insufficient to make a finding that Rodney Byrne unreasonably impoverished the property. It seems an odd argument by Karen Carlow-Byrne that Rodney Byrne did not do enough to improve the property when she has maintained vehemently throughout that this was not his property to begin with. Even on Karen Carlow-Byrne’s evidence, he attempted a number of repairs and maintenance to the property, which shows me his contribution to it and an understanding that it was his property as well.

[34] Karen Carlow-Byrne says that the condition of the home was so deteriorated that the insurance company refused to insure it. Rodney Byrne provides a letter from the insurance company confirming that it was cancelled because of non-payment. Karen Carlow-Byrne says a number of things in reply to this. First, despite her evidence in her affidavit that the house was uninsurable because of its condition, she agreed on the stand that the insurance was cancelled because of non-payment. However, in her subsequent affidavit, she speculates that Rodney Byrne obtained access to her insurance policy and cancelled it. She says the year, 2023, in the letter from the insurance company is incorrect and that this was 2024. She attaches a screenshot of a Policy Renewal dated October 2, 2024, but says that the policy was not, in fact, renewed. Her evidence on this is confusing, to say the least. She even goes as far as to speculate that Rodney Byrne was attempting to murder her by trying to get her to drink Chaga Fungus Tea which can cause kidney damage.

[35] In any event, given the conflicting evidence of Karen Carlow-Byrne, I am not able to conclude that the house insurance was cancelled because of its condition. Even if I was, there is no direct or indirect link between the condition of the property and the actions or inactions of Rodney Byrne.

[36] Rodney Byrne is entitled to half of the net proceeds from the sale of the property. The proceeds were \$158,411.49; therefore, \$79,205.75 from the funds remaining in trust shall immediately be released to Rodney Byrne.

### **PERSONAL PROPERTY**

[37] Rodney Byrne is requesting a specific list of personal property from the home be provided to him. The items are of a low to modest value and range from garden rakes to snow blowers. Karen Carlow-Byrne says that she gave Rodney Byrne a number of opportunities to obtain his personal property from the home and none of the items he is now requesting remain with her. She says he either took them or they were disposed of after giving Rodney Byrne opportunities to obtain all the personal property he requested.

[38] Unfortunately, there is little I can do about these items of personal property that Rodney Byrne is requesting given that Karen Carlow-Byrne is stating that the items are no longer in her possession. Rodney Byrne has not asked me to assign a value to these items and have him reimbursed for them.

[39] A second request from Rodney Byrne, however, is for the internet equipment belonging to Purple Cow that he had to pay them \$150 for when it was not returned. He specifically requested this equipment from Karen Carlow-Byrne

in April of 2025 when he advised her that he would be disconnecting the internet at the end of the school year. Karen Carlow-Byrne says that she no longer has this internet equipment. However, I note that she would have had it when she received the text from Rodney Byrne which would have been prior to the sale of the home on April 24, 2025. Rodney Byrne says specifically in his text to Karen Carlow-Byrne that he will need the internet hub, receivers, remotes, and cables to return to Purple Cow.

[40] I find that Karen Carlow-Byrne owes Rodney Byrne \$150 for the monies he had to pay to Purple Cow for the internet equipment Karen Carlow-Byrne failed to provide to him despite his clear request for it.

## **CONCLUSION**

[41] Karen Carlow-Byrne's claim for unequal division is dismissed. Rodney Byrne is entitled to \$79,205.75 as his equal share of the net proceeds from the sale of the matrimonial home. In addition, Karen Carlow-Byrne owes Rodney Byrne \$150 for the internet equipment she failed to provide him. Both those amounts shall immediately be provided to Rodney Byrne from the funds being held in trust.

[42] The remaining funds shall continue to be held in trust until a decision is made on the issue of costs. If either party is seeking costs, they shall provide their

submissions to the court no later than one month from this written decision. The other party has two weeks to provide their written submissions.

Sheppard, J.