

IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)

**Citation:** Wittich v. Wittich, 2005 NSSC 265

**Date:** 20050930

**Docket:** SFH MCA 026767

**Registry:** Halifax

**Between:**

Linda Wittich

Applicant

v.

Michael Wittich

Respondent

---

LIBRARY HEADING

---

**Judge:** The Honourable Justice Beryl MacDonald

**Heard:** July 7 and 8, 2005, in Halifax, Nova Scotia

**Written Decision:** September 30, 2005

**Subject:** Application for spousal support pursuant to the Maintenance and Custody Act for a division of matrimonial property pursuant to the Matrimonial Property Act and a division of a pension pursuant to the Pension Benefits Division Act.

**Summary:** The parties married September 12, 1993. They had a romantic relationship since 1987. They are the parents of a child born in 1989, however the birth registration indicated the wife's first husband as the child's father. For approximately 8 years prior to their marriage the parties lived in a home with the wife's first husband and their children. The home was co-owned by the husband and the wife's first husband. The husband and the wife were not generally known in the community to be in a common law relationship. The parties separated in August 2003. They had a short trial reconciliation from November 2003 until early February 2004. The parties owned real property jointly, had RRSP investments one of which consisted of the husband's severance pay which was, except for five years, earned before the marriage. Remaining RRSP investments had been depleted by the wife. The wife was 54 years of age and had been a homemaker during the marriage and

during most of her first marriage. The wife had no marketable skills and suffered from a number of illnesses.

**Issue:** Whether the parties lived together for a period of time in a common-law relationship, the date of their separation, the identification, valuation and division of matrimonial property, including whether an unequal division was appropriate, division of debt and the entitlement, quantum and duration of spousal support.

**Result:** The husband and the wife were not in a common-law relationship prior to their marriage. The short period of reconciliation after the initial separation was insufficient to establish a new separation date. The husband's agreement to pay the parties' debt as spousal support and other factors defeated the husband's request for reimbursement for these payments. The remaining debt was paid upon the sale of matrimonial property, the remaining equity which, after reimbursement to the wife for household repairs in the amount of \$1000.00 was to be divided equally between the parties. The husband's pension benefit was to be divided pursuant to the provisions of the Pension Benefits Division Act for the period from the date of the marriage to the date of separation. The remaining matrimonial property was divided equally between the parties. The wife was entitled to receive indefinite spousal support in the amount of \$2100.00.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***