

Claim No: 313149

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Boyce v. Kenney, 2009 NSSM 38

BETWEEN:

DELILAH BELLA BOYCE

Claimant

- and -

ROGER WINSLOW KENNEY

Defendant

REASONS FOR DECISION

BEFORE

Eric K. Slone, Adjudicator

Hearing held at Dartmouth, Nova Scotia on August 18, 2009

Decision rendered on August 19, 2009

APPEARANCES

For the Claimant self-represented

For the Defendant self-represented

BY THE COURT:

- [1] This is a Claim and Counterclaim arising from a domestic relationship. The parties cohabited for approximately three years, until March of 2009. The Claimant seeks repayment of a \$4,000.00 loan which she claims to have made to the Defendant. She also seeks further reimbursement for \$999.00 toward items she purchased during the relationship, and further asks for an order directing the Defendant to hand over to her a number of items belonging to her.
- [2] The Defendant has counterclaimed for what he regards as the deficiency owing for her share of expenses during the relationship.
- [3] It is not uncommon for parties who have ended their relationship to want to go back and account for everything they have spent, seeking to recover something from the other party for allegedly not having pulled his or her financial weight. In most cases, this is not an exercise which this Court is interested in supporting. The reason is that this Court's jurisdiction is limited to enforcing contractual or other claims based on a sound legal footing. It is the experience of this Court that many parties enter domestic relationships with a vague and ill-defined framework for expense-sharing that does not amount to a legally binding contract requiring one party to repay the other in the event that the contributions are unbalanced. Having been content with a loose arrangement while the relationship was happy, they may have to live with some imbalance on the final accounting sheet.

- [4] Having said that, it is also true that there are some relationships where there is a binding agreement to share expenses in a certain proportion, in which case an accounting might be appropriate.
- [5] Such cases are rare. This is not one of them.
- [6] Insofar as the parties in this case seek to be reimbursed for bills that they paid or items that they purchased, it is the ruling of this court that such claims will not be entertained. They were clearly operating on an imprecise basis at the time, which I will not attempt to elevate into something more precise.
- [7] That disposes of the entire Counterclaim. The Defendant is not entitled to recover anything for what he believes the Claimant ought to have contributed during the relationship. He did not demand it at the time, and he may not do so now.
- [8] This also disposes of the smaller part of the Claimant's claim which was put forward for \$999.00.
- [9] This still leaves the claim for the \$4,000.00 loan to be considered, as well as the claim for the return of personal items.
- [10] The facts surrounding the \$4,000.00 loan are these. The parties had bred their dog and sold two litters of puppies. The Defendant took the proceeds of the first litter, while the Claimant kept the proceeds of the second, amounting to some \$4,000.00. The evidence clearly shows that they regarded this as the Claimant's money. The Defendant asked if he could

borrow the money for his business, and I find that there was a clear understanding that it would be paid back within a short time. There are confirming e-mails to that effect.

[11] He did not pay back the money. His reasons expressed at the trial was that he believed the Claimant was planning to end the relationship. He also floated the view that it was partly his money as well, since the dog breeding was a joint enterprise, and that he should not have to pay her money that was not entirely hers in the first place.

[12] I find no merit in the defence to this claim. This money was regarded as the Claimant's to do with as she pleased, and there was a clear agreement, confirmed in e-mails, that the Defendant could use it as long as he paid it back.

[13] The Claimant will accordingly have judgment for \$4,000.00.

[14] The items of personal property are not really in dispute. The Defendant was willing to hand them over, but had been unwilling to allow the Claimant entry into his home unsupervised, for fear that she might take other things. The order of this court is that she may have the items enumerated on her claim, but nothing else, and my assessment of the Claimant is that she will fully respect this order. Nevertheless, it will be up to the parties themselves to make arrangements for the handover of these items. Given that the Claimant now lives in New Brunswick, there may be logistical problems, but it is my hope that this can be worked out without the intervention of the sheriff's office.

- [15] The Claimant is also entitled to her costs of \$89.68, plus I allow an additional amount of \$100.00 for her expenses of travelling to and from New Brunswick for the hearing.

Eric K. Slone, Adjudicator