

Claim No: 405056

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Perry v. Saben, 2012 NSSM 44

BETWEEN:

KEIR ANDREW PERRY

Claimant

- and -

SARAH RUTH SABEN (aka Leisen, Bottomley, Perry)

Defendant

REASONS FOR DECISION AND ORDER

BEFORE

Eric K. Slone, Adjudicator

Hearing held at Dartmouth, Nova Scotia on September 4, 2012

Decision rendered on September 7, 2012

APPEARANCES

For the Claimant self-represented

For the Defendant Jennifer Stevens (friend)

BY THE COURT:

[1] The Claimant has brought this claim against the Defendant seeking to enforce certain provisions that were originally written into a Separation Agreement, and which were later made part of a Corollary Relief Order issued by a judge of the Nova Scotia Supreme Court Family Division.

[2] The Defendant has since moved to British Columbia, and was represented at the hearing by a friend.

[3] It is not necessary to get into too much detail about the substance of the claim. Suffice it to say that it has to do with a vehicle which the Defendant has in her possession, for which the Claimant continues to bear some financial responsibility. It would appear that the Claimant wishes either to be relieved of his financial obligation, or to have the vehicle turned over to him. Although it has not yet cost him any money being on the car loan, he claims that it is affecting his credit rating.

[4] I advised the parties at the hearing that I had serious doubts as to whether I had any jurisdiction in the matter. The fact that the Defendant is in British Columbia certainly complicates the matter, but that in itself would not necessarily be fatal. The much larger problem, which I find to be insurmountable, is that there is already a court order, namely the Corollary Relief Order, in force. The Small Claims Court is a statutory court which has jurisdiction to resolve disputes in specific situations set out in the Act. It is quite clear to me that enforcing an order of the Nova Scotia Supreme Court is not one of those matters entrusted to the Small Claims Court.

[5] It is not for me to say definitively which court might have jurisdiction, given the inter-provincial nature of this current dispute. However, it would almost certainly be either the Nova Scotia Supreme Court Family Division or the British Columbia Supreme Court.

[6] This is essentially what I communicated to the parties at the conclusion of the hearing before me. I make these further comments because this is not the first time that someone has come before this court seeking to enforce an order issued by a higher court. It is quite understandable that people may see the Small Claims Court as an attractive option. There is little expense, not much complexity in terms of documents that must be filed, and very little delay in getting a hearing date. I would contrast that with the much more demanding procedures that apply in the Supreme Court, and the much more difficult task of getting into that court in a timely manner. However, until or unless the Nova Scotia Legislature decides to give this court the power to enforce orders of other courts, there is nothing that we can do to help such people.

[7] In the result, this claim must be dismissed, obviously without prejudice to such other steps that the Claimant may wish to take in another forum.

Eric K. Slone, Adjudicator