

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Citation: Comeau v. Smith, 2019 NSSM 16

Claim: SCD No. 481544
Registry: Digby

Between:

Ginger Anne Comeau

CLAIMANT

– and –

Ian John Smith and Clare Logging and Tree Farming

DEFENDANT

Adjudicator: Andrew S. Nickerson, Q.C
Heard: March 14, 2019
Decision May 2, 2019
Appearances: The Claimant, self-represented
The Defendant, self-represented

DECISION

Facts

[1] The parties cohabited for approximately a year and a half. They entered into an agreement for the purchase of the property to be paid over time. They each contributed \$5000 to the \$10,000 down payment. The claimant seeks reimbursement of her \$5000 and the defendant says that he would pay it when he eventually pays out the agreement. They continued to make the payments while they were living together. Sadly, their relationship deteriorated. The claimant claims for various bills which she incurred during cohabitation.

[2] The defendant acknowledges owing \$1753.74 in respect of the wood stove, and \$1448.74 in respect of the sewer claim.

[3] In addition, the claimant claims for various other bills which she paid and as well for work which she performed for the defendant's company. She says that she has incurred expenses because she had to leave the home due to the defendant's abuse.

[4] The claimant claims that she had done a great deal of landscaping and landscaping work and that she had planted shrubs and trees having a cost of \$3680. The defendant says that the claimant is free to come and retrieve those plants.

Analysis

[5] It is very difficult to get a clear picture of exactly what happened here but I am satisfied that the claimant was fully justified in leaving the home due to the defendant's behaviour.

[6] I will allow the amounts of \$1753.74, and \$1448.74 as acknowledged by the defendant.

[7] I'm further satisfied that the claimant should be reimbursed the \$5000 upon the release of her interest in this agreement to the defendant. I'm not satisfied that the payments that she made during cohabitation are reimbursable.

[8] I am satisfied that there was substantial value in the plants provided by the claimant but I'm not satisfied that their value should be determined to be their cost. I will allow \$2000 under this heading.

[9] I will allow \$100 for the hardware and cement for the fence. I am not satisfied that the remainder of the claim is sufficiently clear or proven in order for me to award damages.

[10] I am satisfied that the claimant should be reimbursed her \$5,000. However she is a party to this agreement of purchase and sale and she should give up her rights in that regard in exchange for the \$5,000 payment.

[11] I will grant judgement in the amount of \$5,203.49 to the claimant. I will grant further judgement in the amount of \$5,000 to the claimant upon the claimant filing with this court proof that she has released her interest in the agreement of purchase and sale dated June 22, 2017. I realize that the parties may not be entirely clear as to what is legally required for the claimant to give up her claim under this agreement. It may well be that the parties may require the assistance of a lawyer. Should this be the case, I place the burden on the defendant to arrange this and to pay for that cost. If the Defendant fails to arrange this within 60 days of the date of my order the claimant may make the arrangements and provide a copy of the lawyer's account to this court. Upon receipt of that I will grant further judgement for that cost.

[12] I will allow costs in the amount of 199.35 for the filing fee.

Dated at Yarmouth, Nova Scotia, this 2nd day of May, 2019.

Andrew S. Nickerson Q.C., Adjudicator