

CANADA / JUDGMENT

Broadbent v. Seguin

2023 BCSC 1560

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2023 BCSC 1560 Broadbent v. Seguin

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Broadbent v. Seguin,

2023 BCSC 1560

Date: 20230905

Docket: E57949

Registry: New Westminster

Between:

Celina Rae Broadbent

Claimant

And

Joseph Aurele Seguin also known as Joe Seguin

Respondent

Before: The Honourable Justice Majawa

Reasons for Judgment

Counsel for the Claimant:

J.M. Dreyer

Counsel for the Respondent:

S. Maroney

Place and Dates of Trial:

Abbotsford, B.C.

May 2-5, 11-13, 2022

New Westminster, B.C.

September 20-23, 26-29, 2022 and

April 17-21, 2023

Place and Date of Judgment:

New Westminster, B.C.

September 5, 2023

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OVERVIEW

- [1] In this family law dispute, the claimant Celina Broadbent, takes the position that she and the respondent Joseph Seguin, were in a marriage-like relationship for nearly ten years beginning in 2010 and ending in 2019. Mr. Seguin acknowledges that he lived in the same residence as Ms. Broadbent and that they had a sexual relationship for a period of time; however, he contends that the sexual relationship ended in or around 2013 and that the relationship was never marriage-like. In the alternative, Mr. Seguin says that if the relationship was marriage-like, then it was over more than two years before Ms. Broadbent commenced her action in July 2019.
- [2] If Ms. Broadbent and Mr. Seguin were in a marriage like relationship for at least two years, then the parties would fall within the definition of "spouses" as set out in s. 3 of the Family Law Act, S.B.C. 2011, c. 25 [FLA]. If the parties are found to be spouses under the FLA, then under Part 5 of that act, Ms. Broadbent may be entitled to share equally in the nearly \$1 million increase in value of a property that Mr. Seguin inherited in 2011, as well as other assets in Mr. Seguin's name. As a "spouse", Ms. Broadbent also seeks spousal support under the provisions of Part 7 of the FLA. Ms. Broadbent did not pursue an alternative claim for unjust enrichment at trial.
- [3] For the reasons that follow, I have determined that the parties were not in a marriage-like relationship, and therefore, were not spouses under the FLA. Thus, Ms. Broadbent's claims for property division and spousal support must fail. If I am incorrect, and they were in fact in a marriage-like relationship, then I have concluded that the relationship ended by August 2016 at the latest, and therefore, pursuant to s. 198(2)(b) of the FLA, Ms. Broadbent was out of time to make a claim under Part 5 or Part 7 when she commenced this action in July 2019.

LEGAL FRAMEWORK

- [4] The statutory provisions and the legal tests with respect to whether or not individuals are in a marriage-like relationship are well known and not in dispute.
- [5] Section 3 provides the definition of a "spouse" for the purposes of the FLA. The relevant portion reads:
- 3 (1) A person is a spouse for the purposes of this Act if the person
- (b) has lived with another person in a marriage-like relationship, and
 - (i) has done so for a continuous period of at least 2 years
- (3) A relationship between spouses begins on
- (a) the date on which they began to live together in a marriage-like relationship;

- [6] The court is to approach the determination of whether a relationship was a marriage-like one in a "holistic" manner in which all of the relevant factors are weighed and considered but in which no particular factor is determinative: *Austin v. Goerz*, 2007 BCCA 586 at paras. 58 and 62.
- [7] It is not appropriate to take a "checklist" approach to determine the issue; however, it is appropriate to consider whether commonly-accepted "indicators of the sorts of behaviour that society, at a given point in time, associates with a marital relationship" are present or absent in the parties' relationship: *Weber v. Leclerc*, 2015 BCCA 492 at para. 25. As referenced by Schultes J. in *Dey v. Blackett*, 2018 BCSC 244 at para. 193, those indicators often include "shared shelter, sexual and personal behaviour, services, social activities, economic support and children, as well as the societal perception of the couple": *M. v. H.*, 1999 CanLII 686 (SCC), [1999] 2 S.C.R. 3 at para. 59, citing *Molodowich v. Penttinen* (1980), 1980 CanLII 1537 (ON SC), 17 R.F.L. (2d) 376 at para. 16 (Ont. Dist. Ct.).
- [8] The parties' subjective intentions are an important consideration in determining whether the relationship was marriage-like. In particular, whether the parties viewed the relationship as being "of a lengthy, indeterminate duration". However, the parties' subjective intentions must be tested against objective evidence of their interactions and lifestyle: *Weber* at paras. 23-24. A party's subjective intention is not determinative and may be overtaken by conduct and other objective criteria such that a person who subjectively believes they were not in a marriage-like relationship may nonetheless be found to have been in one (and vice versa): *Takacs v. Gallo* (1998), 1998 CanLII 6429 (BC CA), 48 B.C.L.R. (3d) 265 (C.A.) leave to appeal to SCC ref'd, [1998] S.C.C.A. No. 238, at para. 53.
- [9] The time limits for commencing an action under the FLA are set out in s. 198. Where the parties are not married, the action must be commenced within two years of the date the parties separated. The relevant portions of s. 198 read:
- 198 (1) Subject to this Act, a proceeding under this Act may be started at any time.
- (2) A spouse may start a proceeding for an order under Part 5 [Property Division] to divide property or family debt, Part 6 [Pension Division] to divide a pension, or Part 7 [Child and Spousal Support] for spousal support, no later than 2 years after,
- (b) in the case of spouses who were living in a marriage-like relationship, the date the spouses separated.
- [10] Determining when parties to a marriage-like relationship have separated is guided by s. 3(4) of the FLA:
- 3 (4) For the purposes of this Act,
- (a) spouses may be separated despite continuing to live in the same residence, and
- (b) the court may consider, as evidence of separation,

(i)communication, by one spouse to the other spouse, of an intention to separate permanently, and

(ii)an action, taken by a spouse, that demonstrates the spouse's intention to separate permanently.

[11] Thus, a legal separation of parties to a marriage-like relationship occurs when one spouse, through actions and/or words, communicates or demonstrates their intention to separate permanently. It is not necessary for both parties to share the intent to separate: *Cole v. Cole*, 2016 BCSC 716 at para. 30.

CREDIBILITY

[12] Not surprisingly, while the parties agree on certain facts, their evidence is diametrically opposed on many factual issues. Consequently, the credibility of the parties, and their witnesses, is an important consideration in my determination of whether the parties were in a marriage-like relationship.

[13] I have considered the often-cited factors summarized by Justice Dillon in *Bradshaw v. Stenner*, 2010 BCSC 1398 at paras. 186-187, *aff'd* 2012 BCCA 296, leave to appeal to SCC ref'd 35006 (7 March 2013) in assessing credibility and determining whether I will accept all, some, or none of their evidence: *Currie v. Taylor*, 2014 BCCA 51 at para. 33. The factors at para. 186 of *Bradshaw* include:

[186] the ability and opportunity to observe events, the firmness of his memory, the ability to resist the influence of interest to modify his recollection, whether the witness' evidence harmonizes with independent evidence that has been accepted, whether the witness changes his testimony during direct and cross-examination, whether the witness' testimony seems unreasonable, impossible, or unlikely, whether a witness has a motive to lie, and the demeanour of a witness generally [citations omitted]. Ultimately, the validity of the evidence depends on whether the evidence is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time (*Faryna* at para. 356).

[14] A witness's testimony is to be assessed in the context of all the circumstances before the Court. *Bradshaw* at para. 187 provides a succinct summary of the correct approach to do so:

[187] It has been suggested that a methodology to adopt is to first consider the testimony of a witness on a 'stand alone' basis, followed by an analysis of whether the witness' story is inherently believable. Then, if the witness testimony has survived relatively intact, the testimony should be evaluated based upon the consistency with other witnesses and with documentary evidence. The testimony of non-party, disinterested witnesses may provide a reliable yardstick for comparison. Finally, the Court should determine which version of events is the most consistent with the "preponderance of probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions".

[Citations omitted.]

- [15] I do not find either party to be particularly credible nor reliable.
- [16] Ms. Broadbent presented as a very detail-oriented witness who was very precise in the language she used when responding to questions in chief and on cross-examination. She appears to have an excellent memory. However, I found Ms. Broadbent to exaggerate matters that support her position while downplaying those that do not. For example, on numerous occasions, Ms. Broadbent testified that nearly every day for nine years, she awoke at 4:30 A.M. to make Mr. Seguin a breakfast sandwich, and that nearly every day for nine years, she greeted him with ice cream and peaches in his lazy chair after he returned from work. She also testified that the parties engaged in sexual intercourse almost every day for those nine years. On a stand-alone basis, this evidence does not withstand scrutiny and is not consistent with common experience. I find this evidence to be an exaggeration in an effort to support a finding of marriage-like relationship.
- [17] As will be discussed later, I also find that Ms. Broadbent's evidence in respect of her allegations that Mr. Seguin forged a tenancy agreement to cast doubt on her credibility.
- [18] Another example of my concerns with Ms. Broadbent's credibility is with respect to her evidence of when the relationship with Mr. Seguin began to deteriorate. Ms. Broadbent was adamant that the relationship remained the same and did not deteriorate until late 2018 or early 2019. However, this evidence is entirely inconsistent with statements she made to various medical practitioners on a number of occasions at the material times. Some of these statements were made in notes that Ms. Broadbent herself wrote in preparation for those medical appointments.
- [19] For present purposes, a final example will suffice. At one point in time, Ms. Broadbent returned to the property that she and Mr. Seguin resided in to find the door nailed shut. She acknowledged that she understood that Mr. Seguin was the one who had nailed the door shut; however, she refused to acknowledge that this conduct was indicative of Mr. Seguin's desire that she not live there any more.
- [20] Mr. Seguin also had credibility and reliability issues. Mr. Seguin had an admittedly poor memory when it came to dates and certain details. While some of this can be explained by the passage of time, at other instances this lack of memory appeared to be convenient because he was oftentimes able to remember details that supported his case and not recall those that did not.
- [21] On a couple of occasions, it was revealed that the evidence Mr. Seguin gave at discovery was inconsistent with the evidence he provided at trial. For example, at discovery, he was vague and evasive when asked if he had a girlfriend at a particular point in time and ultimately did not admit that he did. However, at trial, Mr. Seguin testified that he has been in a relationship with Maria Metcalfe since September 2014. Mr. Seguin explained that the evidence he gave at discovery was untrue and that he had done so to protect Ms. Metcalfe

who at that time was involved in a marital dispute with her now ex-spouse. While this may be the case, at its best, Mr. Seguin gave false evidence at discovery despite understanding his obligation to tell the truth. It causes me to question whether Mr. Seguin has altered or painted his testimony at trial with a certain brush in order to buttress his position.

- [22] On another occasion at discovery, Mr. Seguin agreed that he and Ms. Broadbent had a "boyfriend - girlfriend thing going on" whereas at trial he testified that he never considered their relationship to be one of boyfriend-girlfriend. During cross-examination he refused to acknowledge that he had ever considered them to be in such a relationship and instead suggested that he meant that others looking in on the relationship might think they were boyfriend-girlfriend. No satisfactory explanation was provided for this inconsistency.
- [23] Both of the parties have a significant motive to tailor their evidence to their position given the binary nature of the determination of whether they were in a marriage-like relationship and the consequences of such a finding. Given my concerns with their credibility, I have approached both parties' evidence with a great deal of caution. I am unwilling to uniformly prefer either's evidence where there are conflicts unless there is objective evidence to do so.

BACKGROUND FACTS

- [24] Ms. Broadbent and Mr. Seguin were 57 and 61 years of age at the time of trial, respectively. They met each other in 2005 at a JJ Bean coffee shop in Vancouver. At that time, Mr. Seguin lived in Richmond and Ms. Broadbent lived in Burnaby. Mr. Seguin was then, and is now, employed as an excavator operator and prior to that he was a mechanic for over 20 years.
- [25] Ms. Broadbent has significant health issues and she had those issues in 2005 and before. The health issues are related to the diagnosis she received in 1998 of a rare and acute case of ulcerative colitis and toxic megacolon. She has been in and out of the hospital on numerous occasions both for acute issues and multiple surgeries. Her colon was removed and she was required to use an ostomy bag. This condition causes Ms. Broadbent significant pain and discomfort and requires significant maintenance and attention. Ms. Broadbent was not employed when the parties met in 2005 and has remained unemployed at the time of trial. She receives a disability benefit from the provincial government. In addition to the physical health issues arising from her diagnosis, she says she currently has a number of other symptoms including depression, chronic pain, and problems with her eyesight.
- [26] The parties shared a passion for motorcycles and their relationship evolved from a friendship to a sexual relationship in or around August 2009. At this time, Mr. Seguin began taking Ms. Broadbent on rides on the back of his motorcycle and they began to exchange sexually explicit text messages.

- [27] On October 27, 2010, Ms. Broadbent moved into the studio apartment that Mr. Seguin was renting in North Vancouver. Ms. Broadbent states that around this time, she had given up her apartment, put her belongings in storage and planned to move in with a friend who lived in Hawaii. She testified that she planned to housesit at another friend's residence in New Westminster while she planned her move to Hawaii.
- [28] The circumstances of how Ms. Broadbent came to move into Mr. Seguin's North Vancouver apartment are in dispute. Ms. Broadbent says that Mr. Seguin asked her to move in with him in a romantic way while she was sitting on his knee at the coffee shop they frequented. She says that she was overjoyed at this suggestion and that she accepted immediately. Mr. Seguin, on the other hand, says that his offer was not romantic or related to their sexual relationship; rather, he says that he offered that she move in because she was struggling financially, was unable to pay her rent and had been evicted from her apartment. Mr. Seguin testified that, before she moved in to the apartment, he explicitly told Ms. Broadbent that he did not want a wife, a girlfriend, or a mate, and that she acknowledged this and agreed.
- [29] Ms. Broadbent denies that she had been evicted from her apartment and she denies that Mr. Seguin ever said that he did not want a wife or a girlfriend. I do not accept Mr. Seguin's testimony, given for the first-time during cross-examination, that he saw an eviction notice on the door of her apartment. I also do not accept that he told Ms. Broadbent that he did not want a girlfriend or a wife in the manner he recited at trial. However, I also do not accept Ms. Broadbent's testimony that Mr. Seguin told her that they would be together forever. I find both of their evidence in this respect was likely tailored to support their positions in this litigation.
- [30] The North Vancouver apartment was relatively large for a studio apartment, consisting of approximately 800 or 900 square feet. However, it was indisputably a studio apartment with only one bed. I find that for the time they lived in that apartment, they shared the only bed and that the furnishings they used all belonged to Mr. Seguin as Ms. Broadbent only brought a couple of suitcases with her when she moved in.
- [31] As will be discussed in greater detail later, the parties have provided conflicting evidence about whether there was some sort of tenancy agreement at the time that Ms. Broadbent moved into the North Vancouver apartment: Mr. Seguin says that Ms. Broadbent agreed to pay \$620 per month in rent whereas Ms. Broadbent denies that any tenancy agreement existed or that any rent was paid or payable.
- [32] On January 9, 2011, Mr. Seguin's foster father died and left a property located on 250 Street, Aldergrove, BC (the "Langley Property") to Mr. Seguin in his will. The parties moved to the Langley Property shortly thereafter, and once again the circumstances of that move are in dispute.
- [33] Ms. Broadbent moved into the Langley Property on or around February 2, 2011. She testified that Mr. Seguin told her that they were going to live at the Langley Property forever and that they would never move again. Mr. Seguin denies saying this; instead, he testified that he

provided Ms. Broadbent with the option of moving to the Langley Property with him as a tenant but that he made it clear that her moving there would be conditional upon her being able to meet her transportation needs by way of taxi because she did not have a vehicle of her own and there were little to no transportation services in the area.

- [34] I find it unlikely that Mr. Seguin told Ms. Broadbent that they would live together forever at the Langley Property. Despite other text messages being tendered from this period of time where Mr. Seguin expresses affection, there are no messages that suggest such an intention on Mr. Seguin's behalf. Moreover, no testimony was provided in respect of any other discussions about a long-term indefinite relationship and such a conversation seems improbable given Mr. Seguin's relationship history and his long-held negative view of long-term relationships. However, I also do not accept that Mr. Seguin simply wanted Ms. Broadbent to live with him as a tenant. Their sexual relationship was ongoing and it is more likely that he desired that their relationship continue in a similar manner to how it existed for the few months they lived in the North Vancouver apartment.
- [35] I will discuss the details of the parties' living arrangement later in these reasons. For background purposes, it is sufficient to say that Ms. Broadbent has lived at the Langley Property since she moved there in 2011. As will be discussed, there is much dispute about the nature and circumstances of her residency and the parties' relationship during this time. However, it is undisputed that tensions boiled over in summer 2019. On June 30, 2019, Mr. Seguin and his brother took the dog, Rocky, to be euthanized. Mr. Seguin inherited Rocky from his foster father and the dog had been living with the parties at the Langley Property since they moved there. Ms. Broadbent had a close relationship with Rocky and was distraught when Mr. Seguin and his brother removed Rocky from the property to take him to the veterinarian. This is the event that Ms. Broadbent says marked the end of their marriage-like relationship. On July 15, 2019, she filed the notice of family claim ("NOFC") initiating this action.
- [36] Following the incident with Rocky, the police attended at the Langley Property on a number of occasions in response to calls made by Ms. Broadbent. In September 2019, Ms. Broadbent obtained a without-notice protection order which prohibited Mr. Seguin from being present at the Langley Property. Mr. Seguin has not resided at the Langley Property since the protection order was issued.

ANALYSIS

Did the Parties Live Together in a Marriage-Like Relationship for a Period of at Least Two Years?

- [37] I do not accept Mr. Seguin's contention that his relationship with Ms. Broadbent was merely a landlord/tenant relationship that was "cordial with sex" for the duration of the time that the parties resided at the North Vancouver apartment and at the Langley Property. When the parties moved in together in October 2010, there was clearly a "romantic boyfriend-girlfriend thing going on" as Mr. Seguin acknowledged during his examination for discovery.

[38] However, this does not lead to the conclusion that the parties were in a marriage-like relationship. While there is no "middle ground" and a person is either a "spouse" or they are not, the ways in which people may live together are not similarly binary. In *C.F.M. v. G.L.M.*, 2018 BCSC 815 at para. 10, Baird J. succinctly put it this way:

[10] People may live together interdependently and continuously and yet fail to establish they developed "the kind of psychological and emotional union" associated with marriage.

[Citations omitted.]

[39] Thus, the ways in which people may live together fall within a spectrum. That spectrum ranges from being roommates with little to no interdependence to a marriage-like relationship and includes all sorts of relationship variations in between such as close friends, friends or roommates who have a sexual relationship, and mutually supportive and interdependent relationships that are or are not sexual and are not marriage-like. In my view, the parties' relationship in this case falls somewhere within this spectrum, and it appears to have been at different points on this spectrum at different times. However, in my view, it was never of the type that had the kind of psychological and emotional union associated with marriage.

[40] The subjective intentions of the parties are an important consideration in determining the nature of the relationship; however, a party's subjective intentions are not determinative. The essential question is aptly posed by Matthews J. in *McDowell v Andrews*, 2018 BCSC 2216 at para. 27. Applied to this case, the essential question is whether Ms. Broadbent and Mr. Seguin developed an intention to be in a committed relationship of an indeterminate, lengthy duration, or, if there are questions about their intentions in this regard, whether there is objective evidence that they had a committed relationship of indeterminate, lengthy duration. Thus, in order to be a "spouse" under the FLA, Ms. Broadbent must demonstrate objectively that there were sufficient features present in her relationship with Mr. Seguin that would equate to a marriage-like relationship for a continuous period of at least two years: *Rizzuto v Grover*, 2020 BCSC 1564 at para. 73-74. As discussed below, I have concluded that Ms. Broadbent has failed to meet the onus upon her in proving this.

The Parties' Intentions

[41] Ms. Broadbent provided evidence that she and Mr. Seguin both intended the relationship to be a committed one of indeterminate length. Ms. Broadbent testified that when she moved to the Langley Property, she considered this to be her last move and that she would live there with Mr. Seguin forever. Mr. Seguin adamantly denies this. As I understand his evidence, Mr. Seguin's stated intention was multifaceted: he wanted to provide a friend who had health problems and who was struggling financially with a place to live. He also wanted, at least in the beginning, to develop or continue a casual sexual relationship. However, he says that he always intended the relationship to be a landlord/tenant one.

- [42] In my view, the objective evidence does not support either of the parties' stated intentions and I have given their evidence in this respect little weight, particularly in light of the concerns I referenced earlier with respect to the parties' credibility. Thus, I will focus on a number of objective factors and considerations.

The Tenancy Agreement and Payment of Rent

- [43] Mr. Seguin contends that Ms. Broadbent's residency at the North Vancouver apartment and at the Langley Property was subject to a tenancy agreement. Ms. Broadbent denies that there was any such agreement or that rent was ever paid or payable by her at any time.
- [44] Mr. Seguin testified that he had an oral agreement with Ms. Broadbent to pay \$620 per month when she moved into the North Vancouver apartment. When it was pointed out to him on cross-examination that \$620 was more than 75% of the \$800 per month in rent he paid for that studio apartment, he explained that the agreement was for \$400 for rent and \$200 for groceries. When made alive to the fact that the amounts cited do not equal \$620, he modified the amount that was for groceries. While Mr. Seguin had never provided a breakdown of the purported rent during his evidence in chief, he had testified that a portion of the rent payment was meant to cover a portion of Ms. Broadbent's food costs at the North Vancouver apartment.
- [45] Mr. Seguin testified that Ms. Broadbent paid rent to him in cash while she resided at the North Vancouver apartment. Mr. Seguin did not issue any receipts to Ms. Broadbent and she denies ever making any such rent payments.
- [46] Mr. Seguin contends that the parties executed a written tenancy agreement dated June 1, 2011, after they moved to the Langley Property. He says they prepared it together. The tenancy agreement provides that the rent payable is \$650 per month. Ms. Broadbent alleges that the tenancy agreement is a forgery and denies having signed or having seen it until after the litigation commenced. Ms. Broadbent raises a number of issues with the tenancy agreement in support of her allegation that it is a forgery.
- [47] Ms. Broadbent points out that there is a typographical error in that her last name is spelled incorrectly as "Braodbent" in the typed portions of the document. She says that she would not have signed a document in which her name was spelled incorrectly. However, on the final page of the agreement, the typographical error is corrected in handwriting and the correction is initialled. It seems to me that it is at least equally plausible that the typographical error was corrected by Ms. Broadbent when signing the document as it is that Mr. Seguin forged it and then made the correction in handwriting. One wonders why would Mr. Seguin have not instead re-typed Ms. Broadbent's name and re-printed the document if he had indeed forged it?
- [48] Ms. Broadbent then points out that the handwritten drivers license number and Social Insurance Number ("SIN") on the first page is done in Mr. Seguin's handwriting and that the SIN is incorrect. She submits that he must have obtained her SIN and copied it down wrong

when he prepared this document. Mr. Seguin acknowledges that he wrote this part of the agreement but says that he was filling the fields in based on what Ms. Broadbent told him at the time. In my view, this error also does not establish that the document is a forgery. It is equally plausible that Ms. Broadbent told him the wrong SIN number, or that he misheard what she told him, as it is that he incorrectly copied her SIN from a surreptitiously obtained document.

- [49] Ms. Broadbent notes that the tenancy agreement states that the rent includes parking for one vehicle; however, Ms. Broadbent did not own a vehicle in 2011 when the agreement was dated. Mr. Seguin testified that this box was checked off in anticipation of Ms. Broadbent obtaining a vehicle. I accept that it was common knowledge that Ms. Broadbent wished to purchase her friend's, Faye Winchar, truck from as early as 2011. Ms. Broadbent eventually did purchase Ms. Winchar's truck in 2014 and parked it on the Langley Property. However, it remains curious that the tenancy agreement makes this provision some three years earlier and it could possibly indicate that the agreement was prepared at a later date when Ms. Broadbent did own a vehicle.
- [50] Finally, Ms. Broadbent alleges that the signature on the final page of the agreement is not hers and that handwriting and printing in the tenant section is also not hers. In support of this position, Ms. Broadbent testified that the distinctive ways in which the 'E's are printed in the tenancy agreement are not the way in which she prints her 'E's. During cross-examination, Ms. Broadbent was taken to a disability application dated October 30, 2002, that she admitted to filling out. When it was pointed out that the printing on that document, and in particular the way in which the 'E's were printed, appear to match the printing in the tenant section of the tenancy agreement, Ms. Broadbent admitted that she did write her 'E's like that in the past but testified that she stopped doing so because of a wrist injury she suffered in 1999. She did not explain why the 'E's were nonetheless printed in this way in a document prepared in 2002. The evolution of Ms. Broadbent's testimony on this point causes me to doubt her credibility with respect to the allegation of forgery, and on other matters as well.
- [51] In my opinion, the printing in the tenancy agreement that Mr. Seguin contends was written by Ms. Broadbent is very similar to the printing on the 2002 disability application which Ms. Broadbent admits is her printing. The distinctive 'E's look almost identical. Ms. Broadbent did not tender any expert evidence in respect of the authenticity of the tenancy agreement. As the party alleging that the document is a forgery, the onus is upon Ms. Broadbent to prove as such. On the evidence before me, Ms. Broadbent has failed to meet her onus and I am consequently unable to find that the document is a forgery.

- [52] Although I have not found the tenancy agreement to be a forgery, questions remain about the circumstances of its execution. Furthermore, it remains unexplained why the tenancy agreement is dated June 1, 2011, when the parties agree that Ms. Broadbent moved into the Langley Property many months before that. Given the inconclusive nature of the authenticity of the document, I have given little weight to it in my consideration.
- [53] Regardless of whether the document is a forgery or not, it is clear that the parties did not follow its terms. No damage deposit was collected as provided for in the tenancy agreement. Mr. Seguin says that Ms. Broadbent paid rent until June 2011 but acknowledges that no rent was paid to him after June 2011. He explained that he did not collect rent after this time because of the help that Ms. Broadbent was providing him with his legal issues arising from a previous relationship (as will be discussed later). However, these legal issues were resolved in 2014 and no explanation has been provided for why rent was not collected after that time. However, as will be discussed later, the parties' relationship had significantly deteriorated by this time which could explain the lack of payment.

The Living Arrangements

- [54] It is undisputed that the parties lived together under the same roof from 2010 to 2019. However, whether they resided together more in the nature of roommates or as a couple is very much in dispute.
- [55] It is clear that the parties shared a bed and engaged in sexual behaviour while they resided in the North Vancouver apartment. It is also clear that when they moved in together, the furnishings used were almost entirely Mr. Seguin's and this continued when they moved to the Langley Property. These factors point towards a relationship that is more than merely roommates.
- [56] The Langley Property consisted of a number of bedrooms. Ms. Broadbent says that they shared the bedroom nearest the garage for the entire time they lived together there. Mr. Seguin says that the bedroom nearest the garage was his bedroom alone and while they had sexual relations there when they first moved to the Langley Property, Ms. Broadbent had a different bedroom in which she slept. Ms. Broadbent acknowledged that she had access to this other bedroom but stated that she only used it to keep her clothes, even though there was a bed in it.
- [57] A significant problem for Ms. Broadbent is that the witnesses called by the parties do little to support her evidence. Ms. Winchar, a friend of Ms. Broadbent's for approximately 25 years, testified that she believed that the bedroom near the garage was shared by the parties because there were some of Ms. Broadbent's clothing lying across the bed and there appeared to be some of her ornaments in the room. However, she later acknowledged that she never went into the bedroom but only observed it from the hallway when the door was open. This is the extent of the evidence that Ms. Winchar had of their sleeping arrangement and it adds little to the understanding of the parties' routine.

- [58] Mr. Seguin tendered evidence from a number of friends who had visited the Langley Property on various occasions over the years. Zoran Mijagovic has known Mr. Seguin for approximately 25 years and they consider each other to be close friends. He stayed at the Langley Property for approximately three weeks in 2012 or 2013 and for one week in 2018. During these visits, he did not witness any type of romantic behaviour between the parties. During his first visit, Mr. Mijagovic stayed in a fifth wheel trailer on the Langley Property so he did not have an opportunity to witness first hand the parties' sleeping arrangements; however, he did not understand the parties to be in a romantic relationship.
- [59] On his second visit, Mr. Mijagovic stayed in a bedroom inside the house. He testified that Ms. Broadbent slept in her bedroom and that Mr. Seguin slept in his bedroom near the garage. He knew this because he heard Ms. Broadbent snoring in her bedroom and that made it difficult for him to sleep. He testified that on both visits, he never saw Ms. Broadbent prepare meals for Mr. Seguin or for both of them and she did not share meals with them.
- [60] Mr. Mijagovic provided his evidence in a clear and forthright manner. He willingly made concessions that did not assist Mr. Seguin's case such as acknowledging that he did not have the opportunity to observe the parties sleeping arrangements during the first visit. I found Mr. Mijagovic to be a credible witness and I accept his evidence on the points referenced above.
- [61] Ed Rosinski has known Mr. Seguin since the two were teenagers. He visited Mr. Seguin at the Langley Property on two or three occasions in or around 2011 and 2012. He testified that during these visits, he did not witness any sort of romantic behaviour between the two of them or anything that would indicate that they were more than friends. On a couple of occasions, Ms. Broadbent would invite herself to sit with them on the deck but they did not share meals together. Mr. Rosinski understood that Ms. Broadbent slept in her bedroom and that Mr. Seguin slept separately in his bedroom. He acknowledged that he never looked inside Ms. Broadbent's bedroom because the door was kept closed. However, he said he saw Ms. Broadbent go into her room at night and come out of her bedroom in the morning. Mr. Rosinski would stay in the trailer or sometimes he would stay in the house, in which case he would stay in Mr. Seguin's room and Mr. Seguin would use the spare room or the couch.
- [62] Mr. Rosinski stopped visiting and staying with Mr. Seguin at the Langley Property in or around 2013 or 2014 because he felt uncomfortable. He testified that this discomfort arose because Mr. Seguin had told him on numerous occasions that he wanted Ms. Broadbent to leave the Langley Property but she would not and he felt that his friend was being taken advantage of, partly due to Mr. Seguin's concern for Ms. Broadbent's health.
- [63] Mr. Rosinski testified that he saw a rent receipt for a rental payment made to Mr. Seguin. However, Mr. Seguin acknowledges that he never provided any receipts in respect of rent received from Ms. Broadbent. While I do not find that Mr. Rosinski intentionally gave false testimony to the Court, it is likely that his testimony has been influenced by the many conversations he has had with Mr. Seguin about Ms. Broadbent's residency over the years

and his admitted desire to assist his friend. Consequently, I have approached all of Mr. Rosinski's evidence with some caution and have given it less weight than I have given Ms. Winchar's and Mr. Mijagovic's evidence.

- [64] There are some photographs in evidence which support Ms. Broadbent's testimony that she had access to the room she says she shared with Mr. Seguin. However, it is not clear when these photographs were taken.
- [65] It appears that Ms. Broadbent did not have access to the entire Langley Property. There are a number of outbuildings on the property which Mr. Seguin kept locked and he did not provide keys to Ms. Broadbent, although they were sometimes left hanging on a wall hook. The storage area on the Langley Property in which Ms. Broadbent kept the possessions she originally planned to store at her friend's house while she was in Hawaii only contained her items; they were not intermingled with any of Mr. Seguin's possessions.
- [66] I find that the parties shared meals on occasions up until 2013 or 2014. I do not accept that Ms. Broadbent prepared meals for Mr. Seguin every day and they invariably shared meals until 2019. The evidence simply does not support this contention. It does appear that the parties did some grocery shopping together; however, the evidence does not support Ms. Broadbent's contention that this was a "ritual". Moreover, while there is documentary evidence that supports some limited joint shopping before 2015, there is no evidence that supports such behaviour post 2015.
- [67] Upon consideration of the evidence, I find that the parties shared a bed while they lived together in the North Vancouver apartment. After moving to the Langley Property, I find that each party had their own separate bedroom but that they would sometimes share a bed on occasions. However, this is not sufficient to find a marriage-like relationship.

Sexual Relations, Intimacy and Sharing of Personal Information

- [68] Ms. Broadbent testified that sex was a big part of the parties' relationship and that they had sex almost every day until the spring 2019 when she says the relationship changed. Mr. Seguin admits they had sexual relations but says they stopped doing so in 2013 or 2014. He testified that since he began a serious relationship with Ms. Metcalfe in September 2014, he has not had sexual intercourse with anyone other than Ms. Metcalfe. Ms. Broadbent testified that she had no other sexual partners during the time she was with Mr. Seguin. On the evidence before me, I accept that Mr. Seguin has been in a sexual relationship with Ms. Metcalfe since 2014.
- [69] Ms. Winchar provided some evidence in support of the intimate nature of the parties' relationship in the earlier years. I found Ms. Winchar to be a credible witness; she thought carefully about the questions being asked and appeared to answer questions thoughtfully and provided answers that did not necessarily assist her friend. She testified that she first met Mr. Seguin in 2011. Until 2014, Ms. Broadbent and Mr. Seguin would share some holiday meals with Ms. Winchar at her residence, such as Thanksgiving dinner. Ms. Winchar

testified that she observed the two of them display physical affection such as hugging and "groping" while in her presence. However, the last time she saw any such physical affection was in 2015. Ms. Winchar also testified that on the few occasions she travelled on vacation with Ms. Broadbent in 2011 and 2012, that Mr. Seguin would drop them off and pick them up from the airport. Ms. Broadbent would buy gifts for Mr. Seguin while on these trips. This is supportive of more than a roommate type relationship, at least in the first couple of years that the parties resided at the Langley Property.

- [70] Before Ms. Broadbent went on one of her vacations with Ms. Winchar in 2012, Ms. Broadbent typed an informal "will" in which she bequeaths some of her belongings to Mr. Seguin. There is no evidence that Mr. Seguin ever executed or contemplated executing a will in which he bequeathed anything to Ms. Broadbent.
- [71] There is evidence that the parties exchanged gifts in the early years of their relationship but I do not find that this continued after 2014.
- [72] Ms. Broadbent maintains that she and Mr. Seguin were in love and expressed their love for each other. She points to some text messages in support. In my view, the text messages do show a level of affection and sexual interest between the two but they do not support Ms. Broadbent's contention that Mr. Seguin was in love with her. In any event, the text messages are rather dated; there were none presented to the court post 2012 that contained expressions of affection on behalf of Mr. Seguin.
- [73] Mr. Seguin shared personal information with Ms. Broadbent in the early years of their relationship that certainly goes beyond what would be typical of a relationship solely in the nature of roommates. For example, Ms. Broadbent helped Mr. Seguin with a family law dispute involving the mother of Mr. Seguin's child. Mr. Seguin provided Ms. Broadbent with personal and financial information as part of this process. However, this assistance ended by August 2014. I also accept that Ms. Broadbent assisted Mr. Seguin with preparation of a resume when he was considering a change in employment in early 2014.
- [74] There is little evidence, however, that Mr. Seguin assisted Ms. Broadbent with her rather serious health issues. As alluded to earlier, Ms. Broadbent has a variety of significant health issues. These health issues required her to attend many doctor's appointments, take various medications, and obtain, and use various medical supplies and equipment. While Ms. Broadbent initially maintained that Mr. Seguin regularly took her to appointments and picked up medical supplies for her, on cross-examination she acknowledged that he only picked up medical supplies once and was merely with her on some occasions when she picked up supplies herself. Mr. Seguin acknowledged that he provided Gatorade to Ms. Broadbent on a number of occasions, the use of which she characterizes as being a medical necessity.
- [75] Mr. Seguin denies that he ever assisted Ms. Broadbent with her ostomy bag, or any self-care, even after Ms. Broadbent's broken wrist in August 2019. Although Ms. Broadbent maintains that he assisted her with bathing and changing during this time, her testimony is not

consistent with what she told her doctor at the time which was that she did not have any assistance at home and needed the doctor's assistance in arranging for such care. The limited assistance that Mr. Seguin has provided to Ms. Broadbent in respect of her serious medical issues is not indicative of the type or extent of assistance one would expect to see in a marriage-like relationship. Moreover, I accept that he was, and remains, unaware of the specific details of her medical conditions. In my view, this is also not consistent with the intimacy one would expect in a marriage-like relationship.

Financial Interdependence and Sharing of Assets

- [76] The parties did not share bank accounts or credit cards. Ms. Broadbent maintains that Mr. Seguin paid for all the utilities, property taxes and maintenance. Mr. Seguin contends that he sought repayment of the utilities bills from Ms. Broadbent but she refused to pay. It does appear that Ms. Broadbent assisted Mr. Seguin with the organization and payment arrangements for some of the utility bills in the early years. This suggests more than a landlord-tenant relationship.
- [77] Ms. Broadbent also maintains that he paid for groceries. Mr. Seguin contends that Ms. Broadbent paid rent to him and that when he bought groceries, she would reimburse him. Ms. Broadbent presented voluminous receipts in support of her contention that the parties shopped for groceries together and that Mr. Seguin paid for those groceries. However, as referenced earlier and as will be described later, there is no documentary evidence in support of this after 2015. In any event, these receipts are not so extensive to support Ms. Broadbent's contention that they engaged in grocery shopping together in a ritualistic manner.
- [78] I accept that Mr. Seguin let Ms. Broadbent use one of his vehicles on occasion until she got her own vehicle in 2015 but I find that she had to ask permission to do so. There is little to no objective evidence that Ms. Broadbent was permitted to use any of Mr. Seguin's other vehicles at any time or that she was permitted to use the vehicle she had previously used after she purchased her own truck. Mr. Seguin has purchased or leased a number of vehicles in the time that Ms. Broadbent says they were in a marriage-like relationship; however, he has never consulted her about any of these acquisitions even though some were rather significant and required substantial monthly payments.

Social Lifestyle and Interactions with Others and Family

- [79] There is no evidence that the parties entertained at the Langley Property and there do not appear to be any friends they ever shared jointly. While it appears that Mr. Seguin has a relationship with his neighbours, it does not appear that Ms. Broadbent has such a relationship and it does not appear that the parties ever engaged with their neighbours together. I have already discussed the way in which the two interacted in the presence of Mr. Rosinski and Mr. Mijagovic during their visits to the Langley Property and the way in which they interacted in the presence of Ms. Winchar.

- [80] Mr. Seguin spent a considerable amount of time with his friends, including Brian Metcalfe (Ms. Metcalfe's former spouse) at coffee shops and riding motorcycles. By both Mr. Seguin and Mr. Metcalfe's evidence, Mr. Seguin spent most Saturdays in this manner beginning in the fall 2013 and continuing throughout 2015. During this time, Ms. Broadbent never attended with Mr. Seguin, despite the fact that she occasionally used to ride on motorcycles with Mr. Seguin before 2015.
- [81] Mr. Metcalfe testified that when he first met Mr. Seguin in 2013, Mr. Seguin spoke positively about Ms. Broadbent and mentioned the assistance she provided him with in respect of his family law dispute and issues with the Family Maintenance Enforcement Program. However, Mr. Seguin also spoke disparagingly of her when explaining to Mr. Metcalfe why he would not allow her on his motorcycle. Mr. Metcalfe knew that Ms. Broadbent lived at the Langley Property and had done so for a number of years. He assumed that they had a romantic relationship, although Mr. Seguin did not describe it that way to him and did not refer to Ms. Broadbent as his girlfriend or spouse.
- [82] On the evidence before me, the first time that Mr. Metcalfe met Ms. Broadbent was in 2014 or 2015 when he came to the Langley Property to get Mr. Seguin's mechanical assistance with a motorcycle that Mr. Metcalfe had purchased for Ms. Metcalfe. On this occasion, Ms. Broadbent brought water to him and Mr. Seguin and Mr. Seguin responded by telling her to get back in the house and not bother him anymore. Other than this interaction, I do not understand Mr. Metcalfe to have any other observations of the parties together.
- [83] It does not appear that either of the parties met many members of the other's family. Ms. Broadbent was not introduced to Mr. Seguin's foster father who was admitted to the hospital around the same time that Ms. Broadbent moved into the North Vancouver apartment. Had Mr. Seguin expressed an intention to be with Ms. Broadbent indefinitely in a marriage-like relationship as Ms. Broadbent maintains, it is curious that Mr. Seguin did not take her to meet his foster father despite the fact that he visited him in the hospital nearly everyday for the three months leading up to his death. I do not accept that he decided not to introduce her only because he had recently ended a relationship with another person. I infer that it is more likely because Mr. Seguin did not consider their relationship to be of the same significance that Ms. Broadbent believed it to be.
- [84] Mr. Seguin has not met Ms. Broadbent's parents. However, I take little from this as it appears that Ms. Broadbent's father did not live in the Lower Mainland and she rarely saw him in the seven years leading up to his death. Mr. Seguin did, however, meet Ms. Broadbent's youngest brother, his wife, and their children in 2013 and perhaps in 2015 to celebrate the birth of their children. Neither Ms. Broadbent's brother nor his wife provided evidence about the nature of the interactions on these two occasions. Such a visit is consistent with friends or those in a sexual relationship but it does not necessarily indicate that the parties were in a marriage-like relationship.

[85] While Ms. Broadbent maintained that she presented as a being Mr. Seguin's spouse to the outside world, she provided no objective evidence in support of this, other than Ms. Winchar's understanding of their relationship. Ms. Winchar obtained her understanding from Ms. Broadbent and not from anything Mr. Seguin said or anything that she witnessed. In fact, there is no evidence from any of the witnesses that appeared before me that any of them had independently concluded that the parties were in a marriage-like relationship. On cross-examination, Ms. Broadbent acknowledged that she indicated that she was single and not in a common law relationship in all of her tax filings for the relevant years up to and including 2016. No cogent explanation was provided as to why Ms. Broadbent reported in this manner in light of the position she takes in this action.

Conclusion

- [86] In my view, Mr. Seguin has downplayed the nature of the parties' relationship in the first few years the parties lived together. Upon a holistic consideration of all the relevant factors, although there were elements of a landlord-tenant relationship, the parties' relationship was clearly more than that. It involved the sharing of some personal information and included sexual relations. Nonetheless, I do not find that Ms. Broadbent has met the burden upon her of proving that the relationship was a marriage-like one for a duration of at least two years. While Ms. Broadbent may have intended and understood the relationship to be of an indeterminate nature, the evidence does not support a finding that this intention was shared by Mr. Seguin at anytime or that the parties acted in a manner consistent with that intention to the outside world.
- [87] I find myself in a similar position to Francis J. in *Tsui v. Kondra*, 2023 BCSC 1532, at para. 101 in that I am unable to discern from the evidence or the behaviour of the parties the type of emotional commitment required to constitute a marriage-like relationship. Francis J. found the Court of Appeal's comments in *Gostlin v. Kergin*, 1986 CanLII 164 (BC CA), 3 B.C.L.R. 2d 264, although decided under the former legislation, to be helpful and I find them to be as well:

In deciding whether a couple lived together as husband and wife, I would be guided by the scheme and intention of the Act itself. The purpose of the legislative scheme is to impose on an unmarried couple the same obligations under s. 57 as are voluntarily undertaken by a married couple. So I would ask whether the unmarried couple's relationship was like the relationship of the married couple in that the unmarried couple have shown that they have voluntarily embraced the permanent support obligations of s. 57. If each partner had been asked, at any time during the relevant period of more than two years, whether, if their partner were to be suddenly disabled for life, would they consider themselves committed to life-long financial and moral support of that partner, and the answer of both of them would have been "Yes", then they are living together as husband and wife. If the answer would have been "No", then they may be living together, but not as husband and wife.

[Emphasis added.]

[88] If Ms. Broadbent was asked during the relevant period if she would consider herself committed to life-long financial and moral support of Mr. Seguin should he suddenly be disabled for life, I accept that her answer would likely have been "yes". However, on the evidence before me, if he was posed the same question, Mr. Seguin's answer would undoubtedly have been "no". A person looking in from the outside, as the witnesses who were called by the parties did, would likely say "maybe", "I don't know" or "perhaps". It is unlikely that such a person would say "yes". While the parties were clearly in a relationship for a period of time and they lived together, they were not doing so in a marriage-like manner, and therefore, they are not spouses under the FLA.

If the Parties were in a Marriage-Like Relationship, when did it End?

[89] My conclusion that the parties were not in a marriage-like relationship is sufficient to dispose of the action; however, if I am wrong in this conclusion, I have also considered when that relationship would have ended to determine whether Ms. Broadbent commenced this action within the statutorily prescribed time limit. On the evidence before me, the answer to this question would undoubtedly be that, in any event, Ms. Broadbent was out of time when she filed her NOFC.

[90] Ms. Broadbent filed her NOFC on July 15, 2019. Therefore, if the parties were in a marriage-like relationship for at least two years then pursuant to s. 198(2)(b) of the FLA, the parties must not have separated until on or after July 15, 2017, in order for relief to be available under Part 5 and of the FLA. If the parties separated before July 15, 2017, Ms. Broadbent was out of time when she filed the NOFC.

[91] Ms. Broadbent submits that a legal separation of those in a marriage-like relationship requires one spouse to do two things: communicate an intention to separate permanently and act in a way that demonstrates an intention to separate permanently. For ease of reference, I will again set out the relevant portions of s. 3(4):

3 (4)For the purposes of this Act,

(a)spouses may be separated despite continuing to live in the same residence, and

(b)the court may consider, as evidence of separation,

(i)communication, by one spouse to the other spouse, of an intention to separate permanently, and

(ii)an action, taken by a spouse, that demonstrates the spouse's intention to separate permanently.

- [92] I disagree with Ms. Broadbent's interpretation. In the context of the FLA, the use of the word "and" between s. 3(4)(b)(i) and (ii) is not conjunctive. These paragraphs provide what the court may consider as evidence of separation; the paragraphs do not prescribe what must be considered or what must be done. The provision simply provides that the Court may consider evidence of communications or actions, or both, in its determination of when parties separated.
- [93] Given Mr. Seguin's position that the parties were not in a marriage-like relationship, it is not surprising that he cannot point to an email or service of a formal document that directly expresses an intention to separate, which Ms. Broadbent says is something that a "logical person" would use to communicate their intention to separate. Nonetheless, there is evidence that supports an intention to separate in August 2016.
- [94] Mr. Seguin prepared a "2 Month Notice to End Tenancy" dated August 11, 2016 (the "Eviction Notice") which required Ms. Broadbent to vacate the Langley Property by October 31, 2016. The Eviction Notice is witnessed by Peter Seguin (Mr. Seguin's brother) and his signature is dated August 28, 2016. Given that the respondent and his brother share the same last name, I will refer to Peter Seguin as Peter. I mean no disrespect in doing so. Peter testified at trial and I found his evidence in respect of the circumstances of the preparation of the Eviction Notice to be credible. His version of events was not successfully challenged on cross-examination and Peter made a number of reasonable concessions with respect to his memory of the various events he testified to.
- [95] Mr. Seguin requested that Peter come to the Langley Property to witness the Eviction Notice. Peter was aware that Mr. Seguin had been trying to get Ms. Broadbent to leave the Langley Property for some time. Peter stated that the date of August 28 is the date that he signed it on the hood of his truck in the front yard of the Langley Property. He was unsure as to whether Mr. Seguin signed it in front of him or if he had signed it on August 11 as indicated in the Eviction Notice. Peter or Mr. Seguin put the Eviction Notice on the kitchen counter, although Peter was not sure if it was placed there with other documents or mail. Peter recalls Ms. Broadbent picking up the document and walking away with it. He does not recall Ms. Broadbent saying anything or reacting to the Eviction Notice at the time. In her submissions, Ms. Broadbent appears to concede that the Eviction Notice was created by Mr. Seguin in August 2016; however, she denies ever having seen the Eviction Notice. Given my concerns with Ms. Broadbent's credibility, I prefer Peter's evidence on this point and I find that she likely did see the Eviction Notice on or around August 28, 2016.
- [96] Ms. Broadbent submits that regardless of whether or not she received the Eviction Notice in August 2016, it cannot be considered to be a communication by Mr. Seguin of an intention to separate permanently. I disagree. If the parties were in fact in a marriage-like relationship despite Mr. Seguin's belief that they were not (which is a legally possible scenario) then one could not expect Mr. Seguin to make a communication that referenced the end of a relationship that he did not believe existed. However, the Eviction Notice is, in my view, evidence that Mr. Seguin sought to terminate whatever the relationship was that existed

between the parties at the time and for Ms. Broadbent to vacate the property.

- [97] Ms. Broadbent states that there was no change in their relationship at or around or after the time the Eviction Notice was prepared in August 2016. She testified that the parties continued to have sex, spend time together, and generally conduct themselves in the way she described they had in the years before. She says that the relationship did not change until late 2018 or early 2019. Therefore, she argues that even if the Eviction Notice was a communication to separate, Mr. Seguin's conduct was not consistent with that communication. However, I do not accept that the parties' relationship did not change at or around this time or before. Ms. Broadbent's continued occupation of the Langley Property since the Eviction Notice was served upon her is explained by her refusal to leave and Mr. Seguin's reluctance and inability to have her removed from the Langley Property.
- [98] On the evidence before me, it is clear that whatever the parties' relationship was when they first began living together, it changed significantly in or around 2014 culminating with the Eviction Notice in 2016. While Ms. Broadbent tendered photographs of the two of them together in circumstances that could reasonably be seen to show affection between the two, there were no such photographs tendered after 2014. Given the rest of the objective evidence that I will discuss, I do not accept Ms. Broadbent's explanation for why there are no photographs of the two together after 2014 as being due to Mr. Seguin having absconded with a USB that contained such photographs. The lack of photographs of the parties together after the period of 2014 also cannot be explained by Ms. Broadbent not having a cell phone for a period of time given that she had access to other devices that were capable of taking photographs.
- [99] Similarly, although Ms. Broadbent tendered numerous documents in support of telephone calls she made to Mr. Seguin and text messages between the two, there are no such documents after 2013. There is no evidence that Ms. Broadbent rode on Mr. Seguin's motorcycle with him after 2014 or 2015 at the latest. Ms. Broadbent produced receipts in support of gifts she gave to Mr. Seguin 2011 and 2012; however, she tendered no receipts for the gifts she contends that she gave him in the years following despite testifying that she had more receipts at home. The same can be said for receipts tendered to demonstrate that the parties' shopped for groceries together; no such receipts were tendered post 2014. This is inconsistent with Ms. Broadbent's proclivity to retain and tender receipts for numerous purchases. Similarly, the arrangement by which Mr. Seguin paid for the utilities changed around this time as well. For example, the cable television, which was previously paid for by Mr. Seguin, was cancelled and Ms. Broadbent began paying for her own internet access. There is little to no evidence that Ms. Broadbent continued to have access to telephones in the name of Mr. Seguin as she did earlier.
- [100] The change in relationship, and Mr. Seguin's intention to terminate Ms. Broadbent's residency at the Langley Property, is supported by the witnesses that Ms. Broadbent herself called to testify. Ms. Winchar testified to a conversation that she had with Mr. Seguin in 2015 where he asked her for advice or assistance on how he should go about having Ms.

Broadbent move out of the Langley Property. Out of concern for Ms. Broadbent's feelings, Ms. Winchar did not tell her friend about this conversation. It is also telling that Ms. Winchar did not observe any public displays of affection between the two after this time and that the last holiday dinner the three of them shared together was in 2014. The last backyard BBQ the three had together was in August 2016.

- [101] Mr. Metcalfe testified to having a similar conversation with Mr. Seguin in or around 2016 where he recalls Mr. Seguin asking him how he should go about removing Ms. Broadbent, whom he referred to as his tenant, from the Langley Property. Mr. Metcalfe recalls Mr. Seguin telling him that he was planning to turn off the water and gas if she would not leave, which Mr. Metcalfe wisely advised against doing.
- [102] Ms. Broadbent's testimony that there were not any significant difficulties in the relationship until late 2018 is also contradicted by her own documentary evidence. In August 2016, a few days before the Eviction Notice was provided to her, Ms. Broadbent wrote some notes to herself in preparation for an appointment with one of her physicians. In that note, Ms. Broadbent refers to the situation at home as getting "worse". She states that he locked her out of the room where she sleeps even though "he's not even using that bed". This suggests that the parties did not share a room as she testified, at least not at that time, and is contradictory to her testimony that they slept together every night. Ms. Broadbent also writes that Mr. Seguin cut-off her telephone earlier that month and references threats being made by Mr. Seguin to her. I in no way condone such behaviour, and if it in fact happened, I condemn Mr. Seguin for engaging in it. However, such behaviour is clearly not consistent with Ms. Broadbent's contention that the relationship did not experience difficulties until late 2018. There are also references made in various clinical notes made by Ms. Broadbent's medical practitioners that indicate she expressed similar sentiments on other occasions around this time.
- [103] Ms. Broadbent also testified that to her knowledge, Mr. Seguin did not have sexual relations with any other women during the nearly 10 years she lived under the same roof with him. Mr. Seguin testified that he began a sexual relationship with Ms. Metcalfe in 2014 and has been engaged in one with her ever since. Ms. Broadbent's testimony is contradicted by statements she made to medical practitioners in 2016 in which she said she was experiencing stress because of Mr. Seguin's "affair" and that her "partner" was cheating on her. She also contacted Mr. Metcalfe around this time to advise him of her suspicions. I accept Ms. Metcalfe's evidence that Mr. Seguin was spending significant amounts of time with her, including numerous overnight trips, from 2015 onwards. I prefer this to Mr. Metcalfe's contradictory evidence; in my view, Mr. Metcalfe clearly has animosity towards Mr. Seguin and Ms. Metcalfe in respect of their relationship.
- [104] Given Mr. Seguin's view of the parties' relationship, if that relationship was in fact a marriage-like one, the Eviction Notice was a communication of Mr. Seguin's intent to permanently end it. The objective evidence of the surrounding circumstances and the parties' conduct at the time, combined with the above-described change in the

documentary evidence, supports this intention. Thus, if there was a marriage-like relationship, the parties had separated by August 28, 2016, at the latest. Consequently, in order to obtain relief under Parts 5 and 7 of the FLA, Ms. Broadbent was required to file her NOFC by August 28, 2018, pursuant to s. 198(2)(b) of the FLA. She did not file the NOFC until July 15, 2019. Therefore, she is not entitled to make a claim for property division of spousal support under the FLA.

CONCLUSION AND DISPOSITION

- [105] The onus is upon Ms. Broadbent to prove that the parties were in a marriage-like relationship for a period of at least two years. While I have not accepted all of Mr. Seguin's testimony, I also have significant concerns with respect to Ms. Broadbent's credibility. Upon consideration of all of the evidence, I am not satisfied that Ms. Broadbent has met the onus upon her. In any event, if the parties were spouses for the purposes of the FLA, I have concluded that the parties had separated by August 28, 2016, at the latest, and therefore, Ms. Broadbent was out of time to bring her claim for property division and spousal support when she filed her NOFC on July 15, 2019. As result, Ms. Broadbent's claims for property division and spousal support are dismissed.
- [106] Ms. Broadbent is to vacate the Langley Property within 30 days of the date of these Reasons for Judgement.
- [107] In his counterclaim, Mr. Seguin seeks an order for the outstanding rent payable to him under the written tenancy agreement. However, Mr. Seguin did not pursue this relief in submissions before me. In any event, given the inconclusive nature of the authenticity of the tenancy agreement, and the fact that the parties clearly did not abide by its terms in any event, there is no evidentiary foundation upon which such an award could be made. Therefore, Mr. Seguin's claim for occupational rent is dismissed.
- [108] Mr. Seguin has been substantially successful on this action and he is entitled to his Tariff costs at the usual scale.

"Majawa J."

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