

PROPERTY RIGHTS OF COMMON LAW PARTNERS ON SEPARATION OR DEATH

Common law couples do not have the same guarantee as married people that they will divide **matrimonial property** 50/50 after separation or death. While there is no presumption that common law partners will share property 50/50 when they separate **or when one partner dies**, here are some ways the you can ensure you share in at least some of the value of the property:

1. By Registering



Have you registered your partnership?

If you and your common law partner register your **domestic partnership**, this will opt you into the same rights, obligations and protections as married couples. **Make sure to get legal advice first!** Find more information at beta.novascotia.ca/register-your-domestic-partnership

2. By Agreement or Will



Is there an agreement or will that says you will share property?

Common law partners may agree to share their property, for example through either a **cohabitation agreement** (before separation) or in a **separation agreement** (after separation) or by leaving property to their partner in a **will** or by a **beneficiary designation**.

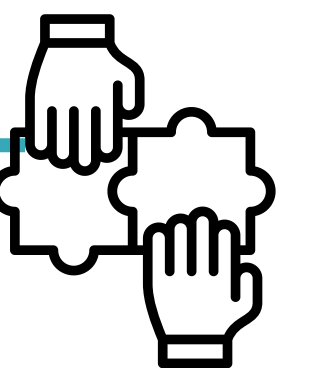
3. By Ownership



Is your name on the the deed or ownership document of the property?

If your name is included on the property (for example, the deed to the home or registration documents for the car), you will generally be entitled to share this property on separation. When it comes to dividing the value of the property, it's much safer for you to have your name on the property than rely on a promise that you will share it.

4. By Contribution



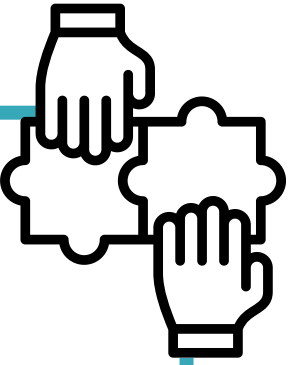
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NOTE: This Poster contains legal information only and is not intended to be legal advice. Every relationship is different and dividing property is complicated - speak to a lawyer to understand the law and how it applies to your situation.

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4. By Contribution



TIP: Keep track of your contributions to the family and/or the property

A common law partner *may* be entitled to a share of the value of the property (after deducting debts) owned by their partner, including a pension, even if their name is not on the property if they can show there has been an **Unjust Enrichment**, including a **Joint Family Venture**.

It is important to note that this can be a complex and lengthy argument to make.

Courts will look at your contribution to the property and how integrated your family life was, including, did you:

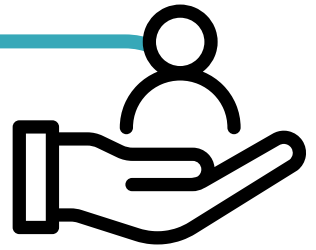
- Have a relationship that looked like a marriage, including by being dependent on each other and planning your life together?
- Raise children together or help care for an older parent or relative together?
- Share money and expenses with your partner?
- Make career sacrifices to ensure the other partner was able to maximize their employment opportunities, including their contribution to a pension or other savings?
- Help to purchase property or help with payments on the property such as mortgages, insurance or taxes?
- Contribute to the family by taking care of the home or undertaking renovations on the home?
- Work or contribute to your partner's business or venture?
- Help the other person contribute to savings, or cash in savings to help with family expenses?

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OTHER FINANCIAL FAMILY LAW CLAIMS OF COMMON LAW PARTNERS

There may be other financial claims that you have as a common law partner after separating.

1. Child Support



Do you have children together?

Child support is money that one parent pays to another for the child's needs. You can figure out how much child support somebody might owe by plugging their income and number of children into the Child Support Table Look-Up. You can also request "special" or extraordinary expenses (called "Section 7 expenses") for things like childcare, medical expenses or extracurricular activities. For more information see www.nsfamilylaw.ca

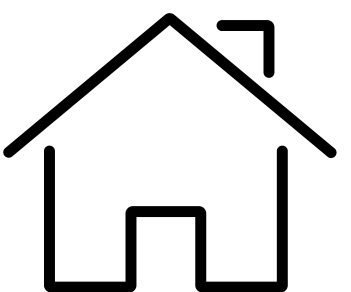
2. Spousal Support



Have you been in a common law relationship for *at least 2 years* or have a child together?

You may be eligible for spousal support if you have been in a common law relationship continuously for 2 years or cohabited with the other person and had a child together. For more information, visit www.nsfamilylaw.ca

3. Exclusive Possession



Do you need to remain in the home?

Common law partners can apply to remain in the home until the family law issues are sorted out, even if it is owned by the other partner and they don't agree to leave. For more information, visit www.nsfamilylaw.ca

4. CPP Credit Splitting



Did your partner contribute to CPP during the relationship?

Common law partners can apply to split the Canada Pension Plan contributions of their former common law partner that they made during the time they lived together.

Note: Apply quickly as you may only have three years after separation to apply. For more information, visit the **Government of Canada website:**

www.canada.ca/en/services/benefits/publicpensions/cpp/cpp-split-credits.html

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Matrimonial Property

Matrimonial Property refers to property and debts obtained by either or both spouses before or during the marriage. This includes things like houses, land, cars and also pensions or debts. Unlike common law partners, the starting point for married spouses is that they are entitled to an equal (50/50) matrimonial property division if they separate or when one person dies, although there are some exceptions.

Cohabitation Agreement

Common law partners may enter into a cohabitation agreement any time during their relationship that outlines in detail how property will be dealt with if they ever separate. It is always a good idea to get legal advice before signing one.

Registered Domestic Partnership

In Nova Scotia, couples who are in a common law relationship can register their domestic partnership with Access Nova Scotia. Although it is not the same as marriage, it gives them the same legal rights and obligations as married people, such as the presumption of an equal division of matrimonial property when they separate and special entitlements to property if one partner dies without a will.

Separation Agreement

A contract between two spouses, common law partners or registered domestic partners to live apart on certain terms, which usually include parenting arrangements, support, and the division of assets and debts.

Unjust Enrichment

A common law partner may be able to argue entitlement to property if they contributed the value of their partner's property. They must show that the other partner gained a benefit at their expense. They must also show that there was no legal reason for this benefit. For example, one partner may have provided money or work toward the improvement of property.

Joint Family Venture

A common law partner may be able to argue that there was a "joint family venture" if their relationship was "marriage-like." A person would need to show that they contributed to the increased value of the property or other financial benefits (such as a pension) during the relationship, and one person keeping the property gives that person an unfair benefit. Courts will consider factors such as intention, mutual efforts, economic integration of the parties and priority of the family. This includes if one parent primarily cares for the children while the other spouse worked and contributed to a pension, for example. Compensation is usually in the form of money and the amount may depend on how much the person contributed to the property or the increased value of the property.

Beneficiary Designation

A person may name another person, including their common law partner, to be the beneficiary (i.e. inherit) when they die. For example, people can name someone as a beneficiary on their pension, life insurance policy, TFSAs or RRSPs.

Learn More

Nova Scotia Family Law: Learn more about common law property, pensions and debts at www.nsfamilylaw.ca

Legal Information Society of Nova Scotia: Learn more about common law relationships, including cohabitation agreements and property on their website at www.legalinfo.org