



“I Forgot to Tell You – It’s Over”

The popular image of a relationship breakdown is one party slamming the door whilst yelling, “I hate you! It’s over! I’m out of here!” or even something more colourful. In reality, it is often more difficult to determine when the relationship is actually over.

In the 2009 Family Law case of *Vine & Carey*, the Court had to decide when a de facto relationship had ended. Whilst there were no arguments that the relationship had ended by the date of the Court hearing, the question raised was precisely what date it did end.

The de facto wife (“wife”) said the relationship ended after 1 March 2009, whereas the de facto husband (“husband”) claimed the relationship ended about May 2008. The date was important in determining whether the Court had jurisdiction to hear the matter as if it did the wife would have a better entitlement in relation to the property settlement than she otherwise would have had.

Ultimately the Court agreed with the wife and found that the relationship ended after 1 March 2009. Whilst it was accepted by both parties that there had been little sexual intimacy since May 2008 and there had been problems in the relationship since that time, the Court took into account the following:

- Neither party had expressly communicated to the other that they regarded the relationship as over until after 1 March 2009;
- The parties continued to live in the same house;
- The parties maintained the same financial arrangement that had existed during the relationship;
- The parties continued to share household tasks;
- The parties even went on an overseas holiday together in October 2008;
- Neither party had communicated to any friends or family that the relationship had ended;
- Even though the husband had a brief relationship with another woman over the Christmas period in 2008/09, the husband kept this hidden from the wife, which indicated an affair rather than a new relationship.

Whether a relationship has ended is therefore not decided on just one factor, but on the circumstances of each case. What this case does demonstrate however, is that if you intend to end a relationship, this must be communicated to the other person.

At Everingham Solomons we have the experience and expertise to assist you with all Family Law enquiries because *Helping You is Our Business*.



Everingham Solomons
SOLICITORS

Incorporating Thomas & Hargreave
and Creagh O'Brien & Co.

Consultant: Ted Heazlett
Directors: John Boag
Terry Broomfield
Ken Sorrenson
Terry Robinson
Mark Grady
Jennifer Blissett
Associate: Lesley McDonnell

Level 3, Ray Walsh House,
437 Peel Street, Tamworth NSW 2340
Ph: 6766 1066 Fax: 6766 4803
Email: solicitors@eversol.com.au

Previous articles available at
www.eversol.com.au



Liability limited by a scheme approved under Professional Standards Legislation