



Family Law & Mediation

If my spouse and I still live under the same roof, can we be considered to be “separated”?

In a nutshell... yes. If you want to rely on the *one-year separation period* to get a divorce, you must be living “separate and apart” for that length of time. To prove this separation, you must overcome two hurdles: physical separation and the intention to bring the marriage to an end. If you are living under the same roof, but are living independent lives, you may already be living separate and apart as required by the *Divorce Act*.

The court may determine that you have been living separate and apart under the same roof if some or all of the following circumstances exist:

1. Separate bedrooms
2. No sexual relations
3. Little, if any, communication between the spouses
4. Meals eaten separately
5. No social activities or vacations together

After you start the clock of living “separate and apart”, you and your spouse may resume cohabitating as spouses with the intention of attempting reconciliation for up to 90 days without re-starting the clock. The 90 days does not have to be continuous, rather you cannot exceed 90 days over the one-year period.

Feel free to contact Stephanie to answer your questions or to set up a consultation.



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PRACTICE

Resolving Disputes Respectfully



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