

CANADA / JUDGMENT

A.M.K. v. M.D.K.

2024 BCSC 2229

COURT

Supreme Court of British Columbia

DECIDED

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2024 BCSC 2229 A.M.K. v. M.D.K.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

A.M.K. v. M.D.K.,

2024 BCSC 2229

Date: 20241209

Docket: E10015

Registry: Prince Rupert

Between:

A.M.K.

Claimant

And

M.D.K.

Respondent

Corrected Judgment: The text of the judgment has been corrected throughout for publication purposes as at paragraph 2 on December 13, 2024.

Before: The Honourable Justice Gibb-Carsley

Reasons for Judgment

The Claimant, appearing in person:

A.M.K.

Counsel for the Respondent:

J. Maxwell

Place and Dates of Trial:

Prince Rupert, B.C.

September 17-19, 2024

Place and Date of Judgment:

Prince Rupert, B.C.

December 9, 2024

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I. Introduction

- [1] Although a number of issues were addressed in this family law trial, the core issue needing resolution is the amount and duration of spousal support that the respondent, M.D.K., will be required to pay to the claimant, A.M.K.
- [2] The parties were married for 24 years and have been living separate and apart for almost nine years. They have one child together who is currently 17 years old, thus requiring child support for fewer than two years.
- [3] In my view, the purpose of this trial is that both parties seek some form of certainty moving forward regarding the amounts of spousal support to be paid by the respondent to the claimant. Given that the respondent is entering the retirement phase of his life, his income is significantly lower than it was when he fully engaged in the workforce.
- [4] The claimant represented herself at trial. Although she is the claimant, I reversed the order of appearances such that I heard evidence first from the respondent and then from the claimant. I also permitted the respondent to provide submissions before the claimant. I did so on the suggestion of the respondent's counsel and with the agreement of the claimant. In my view, varying the procedure in the circumstances advanced the interests of justice by moving the trial forward efficiently by better presenting uncontroversial background evidence of the parties' relationship and financial circumstances.
- [5] At the outset of these reasons, I wish to comment that the parties appeared to be civil and respectful of each other and of the court process during trial. Indeed, it was apparent to me that the parties were simply unable to agree as to what would be a fair amount of spousal support and how long the support should last into the future and so needed direction from the Court. In this regard, I note that the parties settled almost all of the other issues related to the dissolution of their marriage in a consent agreement in May 2022.
- [6] The parties' positions can be summarized as follows. The respondent believes he has paid enough or more than his fair share of support, and because his income is now lower since his retirement as a firefighter, his support payments should also be reduced or stopped altogether. He also asserts that the claimant is intentionally under employed and has had an opportunity to earn more income than she has since the parties separated. The claimant argues that if spousal support stops, she will not have sufficient funds to support her current lifestyle, which she says is modest at best. She asserts that she has wanted to earn income but serious health issues, which developed at the time of separation, have prevented her from working.
- [7] The parties also seek resolution of two additional issues. First, the claimant seeks some, or all, of the Air Mile loyalty travel reward points that the parties accumulated and shared while married. Second, the respondent seeks an order that he be permitted to remove the claimant as a beneficiary from the life insurance policies he holds, and that he no longer be required to pay the premiums on those policies for the benefit of the claimant. I will address

these issues in these reasons, but note that the Air Mile loyalty points issue was essentially resolved by consent during the trial with the respondent agreeing to transfer control of his Air Mile account to the claimant.

- [8] In these reasons for judgment, I will set out a brief background of the parties' circumstances and the history of these proceedings for context and then provide my analysis and determination. I have been intentionally vague regarding certain details in an attempt to respect the privacy of the parties and their child.

II. Background

A. The Parties, the Relationship, and its Breakdown

- [9] The respondent is currently 59 years old. He moved to Prince Rupert as a teenager in 1978 and worked as a truck driver after high school. He started as a volunteer at the fire department in 1986. In May 1989, he became a professional firefighter. I will return to the respondent's work history and income in more detail below.
- [10] The claimant is currently 57 years old. She was also raised in Prince Rupert. While she attended Grade 12, she did not graduate from high school. After high school, she worked as a nanny and continued to live with her mother until she married the respondent. I will provide more detail of the claimant's employment history below but accept that she has had few opportunities to work or train for work during the course of her life. Further, for the past nine years specifically, she has been severely frustrated in her efforts to work or train for work due to significant health issues.
- [11] The parties met in high school but started dating after the respondent graduated in or around 1985. In November 1991, the parties married and subsequently moved in together.
- [12] In June 2000, the parties purchased a historic building in Prince Rupert that was built in the 1920s (the "Commercial Building"). The Commercial Building has a commercial space on the main floor and an apartment on the upper floor. The respondent operated a part-time screen-printing business out of the commercial space in the Commercial Building until 2006. In 2008, he ceased operating the screen-printing business and an artisan craft business began renting the commercial portion of the Commercial Building.
- [13] In March 2007, the parties had their only child (the "Child"). The Child will turn 19 years old at the end of March 2026. The testimony of both the respondent and claimant was consistent that, during the marriage, the claimant was the primary care giver to the Child and the respondent was the sole income earner for the family. As I will describe below, in his testimony at trial, the respondent acknowledged that the marriage was "traditional" in that the claimant's primary role was to raise the Child while the respondent earned income.
- [14] In October 2015, the respondent told the claimant that he wanted to separate. However, the parties kept living in the same house for about a year until the respondent moved out in October 2016. As I understood the evidence, the respondent continued to pay all of the

expenses for the claimant while they lived separate, yet under the same roof, from October 2015 to October 2016. In any event, the parties accept that for the purposes of the trial they separated in October 2015 and, as such, the marriage had a duration of approximately 24 years.

- [15] Since separation, the parties have exercised an equal parenting time arrangement of the Child.

B. The Parties' Work History

- [16] Throughout the relationship, the respondent was employed as a firefighter. In 2015, he paused his employment for health reasons and returned to work in 2016. He was required to take another leave of absence for health reasons in 2020 but returned to work in 2021. The respondent retired from the fire department in April 2023. His employment income as reported on his income tax returns from 2019 to his retirement as follows:

1. 2019 - \$133,815
2. 2020 - \$137,649
3. 2021 - \$191,304
4. 2022 - \$137,104
5. 2023 - \$209,972

- [17] The respondent's income varies from 2019 to 2023, as a result of two factors. First, he was on leave in 2020. Second, he testified that his income for 2021 was higher than his stated salary because in 2021 he received a retroactive payment from a salary negotiation. The respondent testified, and I accept, that his income in 2023, is also significantly higher than his yearly stated income as a firefighter because in that year, he received his regular income plus a retirement and severance package.

- [18] While I need not delve into the specific details of his reasons for being away from work, I find that the respondent suffered a form of workplace injury as a firefighter that both caused him to require two leaves of absence and also accelerated his retirement from fire fighting before the standard age of retirement of 60. It also resulted in him receiving a WorkSafe BC disability benefit (the "Disability Benefit"). I will return to this issue below in my discussion of the respondent's future income earning potential and obligations.

- [19] During the years he worked as a firefighter, the respondent also operated a print business and later a design business. In the design business, he designed and crafted wooden objects and crafts for sale. As I understand his evidence, and as supported by his financial information including his income tax returns, there is marginal or no profit from the design business after expenses are taken into account.

- [20] After the respondent retired from the fire department in April 2023, he worked with consultants at WorkSafe BC to try to find another job that would be appropriate given his workplace injury. As a result, he took training as a driver and commenced driving a bus on a part time basis for the school district. He also drives a tourist trolley as well as a passenger van for shuttle services to and from the airport. Since his retirement in 2023, the respondent estimates that he receives \$18,721 per year as the Disability Benefit as well as \$45,120 from his firefighter pension. The respondent testified that he expects to earn about \$20,000 from the part time driving work in 2024 and in future years. The total of these amounts for the respondent is \$83,841.
- [21] The claimant operated a childcare business after the parties were married. The plan was that she would operate the childcare business and then the parties would have children such that she could raise her children while also earning an income as a childcare provider. However, when the parties had the Child, the claimant closed the childcare centre and the claimant did not work outside of the home other than some casual assistance with the respondent's print shop.
- [22] The claimant has suffered from serious health issues. In April or May 2016, after the parties had separated but while they were still living together, the claimant was diagnosed with a brain tumour. It impacted her balance, mobility, and other physical functions. She was transferred to the Lower Mainland of British Columbia for surgery. The claimant testified that she had planned to work after the parties separated but then became ill with the brain tumour which thwarted her plans.
- [23] In October 2016, after the breakdown in the marriage, the claimant began residing in the apartment in the upper floor of the Commercial Building. The artisan craft business continues to rent out the downstairs commercial space for \$1,280 per month (plus 5% GST), which is paid to the claimant. Given the age of the building, the Commercial Building has required extensive renovations which the claimant asserts have negatively impacted her financial stability.
- [24] The claimant testified, and I accept, that she has generally recovered from the severe symptoms of the brain tumour and resultant surgeries. However, as I understand the evidence, she is not completely medically cleared from a possible recurrence or side effects from the brain tumour at this point in time. Unfortunately, while the claimant was recovering from her brain tumour issues, she started experiencing other health problems that prevented her from working. I need not provide details of the claimant's illness as it is not necessary for my analysis but based on the claimant's testimony and documentary evidence presented to the Court, I am satisfied that her health issues are serious and are of a nature that would prevent her from seeking work outside of the home until they resolve. As I will describe below, she has not claimed disability benefits for either of her health issues, in large part because she expects them to resolve and always hoped to commence work.

- [25] The claimant receives a total of \$15,360 per year of rental income net of GST from the business renting the commercial space of the Commercial Building. The claimant also receives, since 2021, a share of the respondent's fire fighting pension. In her F8 Financial Statement, the claimant reported that she received \$29,294.16 in 2023 as pension income. As I will describe below, the claimant also currently receives \$30,900 a year in spousal support and \$12,948 in child support annually. The claimant also receives the Canada Child Tax Benefit which totals \$3,347.05 annually.
- [26] The total of all of these amounts received by the claimant is \$91,849.21. For clarity and to assess a more accurate assessment of the claimant's income, if the spousal and child support and Child Tax Benefit are removed from this amount, the claimant earns income of \$44,654.16.

C. The Procedural History and Orders

- [27] To his credit, the respondent has never missed a child support or spousal support payment since the parties separated, and on the evidence before me, he owes no arrears.
- [28] When the parties separated, the respondent voluntarily paid \$600 per month starting in October 2016. Commencing on November 1, 2017, pursuant to an order of Justice Punnett of October 23, 2017, the respondent paid \$3,066 of interim monthly spousal support and \$1,196 of interim monthly child support.
- [29] On February 5, 2021, the parties entered into an interim support agreement in which the respondent was required to pay the claimant \$1,079 per month of child support and \$2,575 per month of spousal support (the "Second Interim Order").
- [30] On May 4, 2022, the parties entered into a consent agreement (the "May 2022 Order") that addressed the division of family property. The May 2022 Order also set out that the parties would share parenting time of the Child, and set out the shared parenting responsibilities. Importantly, the May 2022 Order provides that the claimant is entitled to a share of the respondent's pension he earned from his work as a firefighter.
- [31] The May 2022 Order adjourned the determination of spousal and child support and the division and designation of the respondent's life insurance policies generally, which is the reason they are now before this Court at trial.
- [32] With this background of the parties' circumstances for context, I turn to my analysis and determination of the issues.

III. Analysis and Determination

- [33] As set out above, the central issue to be resolved is the amount and duration of spousal support the respondent is to pay to the claimant. This will require me to assess the parties' income for the purpose of calculating support.

- [34] The parties' positions are straightforward. The claimant's concern is that if spousal support ceases, she will be unable to have an adequate standard of living. She contends that she has few prospects for employment and relies on the spousal support to maintain her lifestyle. The respondent argues that he has paid enough spousal support and asks that it cease or be greatly reduced from the \$2,575 per month he now pays, for two reasons. First, he asserts that he is now retired from firefighting and so his income is significantly reduced. He contends that he should not be required to continue paying spousal support to the claimant indefinitely and at the same amount he was paying while he was fully engaged in the workforce. In short, he wants to reduce his spousal support payments as he shifts from his working life into retirement.
- [35] Second, the respondent argues that the claimant is intentionally under employed, or if she is not employable due to her health reasons, she should have, but has not, made any efforts to obtain government disability benefits.
- [36] As I understood the respondent's position, he does not dispute that he will be required to pay child support for the Child until the end of March 2026, when the Child turns 19 years old and is no longer a Child of the marriage. However, he believes that any amount he pays in child support should accord with the actual income he now earns and the income the claimant could earn if she worked or collected disability benefits.
- [37] I will now consider an assessment of the parties' income.

A. The Parties' Incomes

- [38] In effect, each party seeks to impute income to the other party. Section 19 of the Federal Child Support Guidelines, SOR/97-175 [Guidelines] allows a court to impute income to a spouse for the purpose of calculating support. Although the Guidelines formally concern child support, the test for imputing income is similar in the case of both spousal and child support: *Healey v. Healey*, 2022 BCSC 2072 at para. 90, citing *Marquez v. Zapiola*, 2013 BCCA 433. As well, the Spousal Support Advisory Guidelines [SSAG] directly incorporates as a starting point the methodology for defining income set out in the Guidelines: *T.N. v. J.C.N.*, 2015 BCSC 439 at para. 103.
- [39] As I will describe below, two sections of s. 19 appear most applicable to the case at bar. First, s. 19(1)(a) of the Guidelines allows a court to impute income if a spouse is intentionally under-employed or unemployed. Second, and in relation to the respondent's assertion that the claimant is deducting unreasonable expenses from her rental income from the Commercial Building and thus artificially understating her income, s. 19(1)(g) of the Guidelines allows the court to impute income to a spouse if that spouse unreasonably deducts expenses from income.
- [40] In *El-Jaroudi v. El-Mikati*, 2020 BCSC 868, the Court provided a summary of the applicable principles with respect to imputation of income:

[237] Section 19(1) of the CSG provides a non-exhaustive list of circumstances where the court may impute income to a spouse, such as when the spouse is intentionally under-employed or unemployed. The court has a broad discretion to impute income to either or both spouses for the purposes of determining child and spousal support, and is not limited by the restrictions set out in ss. 16-18 of the CSG: *Yeung v. Silva*, 2016 BCSC 1682 at paras. 43-45.

[238] The following principles for income imputation emerge from the authorities:

- a) The court must have a rational and evidentiary basis for imputing income: *Windle v. Windle*, 2010 BCSC 18 at para. 88.
- b) The onus lies on the party seeking to have income imputed to the other spouse: *MacCarthy v. MacCarthy*, 2015 BCCA 496 at para. 35.
- c) Bad faith is not required for a finding that a party is intentionally underemployed. What is required is a finding that the party is not earning to their capacity: *Beissner v. Matheusik*, 2014 BCSC 1785 at para. 37, *aff'd* 2015 BCCA 308.
- d) When imputing income, the court must consider what is reasonable given the age, education, skills, health of the parents, and availability of work: *Yeung* at para. 47.
- e) A parent who chooses to work less than full-time must justify the choice by the needs of the children: *Yeung* at para. 47.
- f) Limited experience and skills do not justify a failure to pursue employment: *Fong v. Fong*, 2011 BCSC 42 at para. 82.
- g) A court may impute income where a person pursues unremunerated employment or unrealistic career aspirations: *Fong* at para. 82.

[239] The overriding principle underlying income imputation is to make the fairest determination of income, having regard to the evidence.

See also *C.Y.C. v. P.J.H.*, 2023 BCSC 1403 at paras. 49 - 51; *Jeerh v. Jeerh*, 2024 BCSC 1965 at para. 189.

[41] Courts have broad discretion to impute income to either or both spouse: *Marquez v. Zapiola*, 2013 BCCA 433 at para. 36. The onus is on the party seeking to impute income to show, on a balance of probabilities, that there is an evidentiary basis to do so: *Marquez* at para. 36; *El-Jaroudi* at para. 238; *Gordon v Norris*, 2018 BCSC 188 at para. 13.

1) The Respondent's Income and Income Potential

[42] The respondent had a significant income when he worked as a firefighter, although he had two periods of time when he was not working due to a health-related leave. He retired from firefighting in 2023 and received a severance and vacation payout. Since retiring from fire fighting, he has taken on employment as a school bus and tourist trolley bus driver in Prince

Rupert. I note that while much of the focus of the trial was related to the claimant's health issues, in this case, both parties have been impacted by health issues that have affected their ability to earn income. I accept the respondent's testimony that due to an injury he suffered while working, he was unable to continue in firefighting as he had planned. Further, I accept that, even without the injury, he had planned to retire when he reached the age of 60 as that is the standard, if not mandatory, age of retirement for firefighters. I reference the respondent's injury because in my view it provides support for his decision to reduce his work, and thus, his income as he ages.

- [43] While the respondent had significant income in 2023, I accept that it is a result of his severance and unused vacation pay and not reflective of his normal earnings. Further, I accept that the respondent is in a point of transition in his life and that he has entered a phase of lower income from his higher earning years as a firefighter. While he is still working and earning some additional income above his pension and Disability Benefit, his income is on the decline.
- [44] While the respondent is still relatively young and has the ability to work for more years at full-time employment, I am not persuaded, on balance, that his choices amount to intentional underemployment. In my view, there has been a natural arc of employment. This may be especially so in certain careers including firefighting where the expected retirement age is younger than in other professions. Further, like the claimant, it is the respondent's health issues that contributed to him stepping away from his job as a firefighter and resulted in him being less able to work in areas related to his training and experience. This analysis is context specific and in my determination, I contrast the respondent's circumstances with those of an individual who might have more flexible career options allowing them to earn income that could continue into retirement age: *Lahdekorpi v. Lahdekorpi*, 2016 BCSC 2143 at para. 85.
- [45] I accept that the respondent's income for 2023 is, as set out above, \$83,841 comprised of \$45,120 per year of firefighter's pension, \$18,721 per year of workers compensation benefit, and approximately \$20,000 from his work operating buses and trolleys in Prince Rupert. While I expect that the pension will remain consistent for the respondent, if I understand the evidence before me correctly, the Disability Benefit will cease when he reaches the age of 65, which occurs during the month of April 2030. Further, the additional work for his bus driving or other work may fluctuate over time and, according to his testimony, the respondent wishes to reduce the amount he works as he approaches the age of 65 and then potentially retire fully at that age.
- [46] Accordingly, I find that a fair assessment of the respondent's income for the purposes of calculating child and spousal support is \$80,000 until he reaches 65 years old. Currently, the income the respondent will earn at the age of 65 is somewhat uncertain. Specifically, as just referenced, I understand that at the age of 65, the respondent may no longer receive his Disability Benefit. Further, his evidence was that he intended to retire from other work, such as driving buses, by the time he reached 65. In my view, it is appropriate for the parties to

review their respective incomes when the respondent reaches the age of 65. This will also give the parties and the reviewing court an opportunity to assess the claimant's economic circumstances and the income she has been able to earn. Of course, at that time or before, the parties are free to agree in writing to different amounts of support if they are mutually of the belief that an adjustment is required.

[47] I will now turn to the claimant's income and income potential.

2) The Claimant's Income and Income Potential

[48] The claimant has earned no employment income since separation. I accept her testimony that she intended to work, but that her health, a circumstance beyond her control, has prevented her from doing so. I find as fact that her health conditions have prevented her from being fully engaged in the work force. I also accept that, given that the parties live in a smaller city, the job opportunities for the claimant with her limited skills and training are more restricted than opportunities in a larger city.

[49] While the claimant does not currently have employment income she does receive income from various sources. As I set out above, her income from her share of the respondent's pension is \$29,294.16, and the rent she receives from the Commercial Building is \$15,360 annually. I have not included the Child Tax Benefit she receives of \$3,347.05 as income, because it is not to be treated as income for the purposes of calculating support: s. 6.3 SSAG. In total, I find that despite claiming she earns no income, the claimant's gross income, not taking into account expenses incurred for renting the portion of the Commercial Building, is currently \$44,654.16, annually.

[50] The claimant testified that she would not be able to survive and pay her expenses if she did not have the added spousal support of \$30,900 and child support of \$12,948 that she receives from the respondent each year. However, the claimant testified that a significant portion of her money goes towards the maintenance of the Commercial Building. For example, she has recently taken a loan for \$40,000 to repair the roof. She claims that these expenses are necessary to maintain the investment, but also acknowledges that they have significantly strained her financially.

[51] I accept as a fact that, up until this point in time, the claimant has been unable to work. I accept her testimony that she believed she would be able to work after she sufficiently recovered from her first illness only to be taken by surprise by her second illness. The unexpected health issues, resulted in the claimant never making a claim for a disability benefit. In respect of the respondent's argument that the Court should consider as a source of the claimant's income the amount of the disability benefit the claimant could have sought but did not, I note that while the disability credits would have improved the claimant's economic situation, disability benefits are not to be considered income for the purposes of calculating support: *Nadim v. Hakim*, 2018 BCSC 1999 at para. 26; and s. 6.2 SSAG.

- [52] The claimant is again optimistic that she will find some employment if her most current treatments assist in her recovery of her second illness. While I sincerely hope she will be able to be healthy and recover sufficiently to join the work force, in my view, there may be difficulties in her securing any significant employment income in the future due to her health issues, age and lack of work experience. I expect that any work would only be on a part-time basis although the claimant testified that she may be interested in opening some type of retail store.
- [53] The respondent points to four factors that may be artificially suppressing the claimant's income. The first is that the respondent alleges that the claimant has been claiming excessive and improper expenses against her rental income from the Commercial Building, thus artificially decreasing her revenue from the rent. Second, the respondent argues that the claimant has not significantly raised the rent on the business renting the commercial space of the Commercial Building for almost a decade, thus renting it below fair market value. Third, the respondent asserts that the claimant has been spending significant amounts of money to restore or maintain the Commercial Building that she should be using for her living expenses. Fourth, and as set out above, the respondent contends that if the claimant is not going to work due to her health issues, she should apply for disability benefits as a source of income.
- [54] I was provided evidence of the claimant's income tax returns for the rent she receives from the Commercial Building as well as the expenses she claims against the rent. While I will not conduct a tax audit of her business expense claims, it strikes me that some of the claimant's expenses claimed against the rental income are excessive. For example, she claimed the entirety of the insurance for the Commercial Building as an expense charged against her rent, despite living in a portion of that building, which would presumably have a personal use component as opposed to a business expense. Further, while I was not provided with compelling evidence of the commercial rental market in Prince Rupert, I accept that the commercial tenants have been paying the same rent for the past 16 years without a significant rent increase. Indeed, the space was rented initially at \$1,200 per month and now is rented for \$1,280 per month. In my view, these two factors support a view that the claimant's income from the commercial rent she receives as stated in her financial documents is artificially low, although marginally. That said, I was provided with no evidence from either party of comparable rents in Prince Rupert and so put little weight on this issue and generally accept the claimant's unchallenged evidence that the tenants have said if the rent is raised, they will terminate the rental agreement.
- [55] In summary, while I find that the claimant may be undercharging rent and over claiming some expenses, I accept that the claimant is entitled to deduct reasonable expenses from the gross rent she earns from renting the commercial space for the purposes of calculating her income. While a rough estimate, if the expenses were 30% of the rent, the claimant would receive as net income \$10,752 annually.

- [56] I accept that the claimant has income from her rent from the Commercial Building and her share of the respondent's pension and Disability Benefit. I also find that given she has testified that she wishes to work part time if her health improves, she has the potential to earn more, albeit limited, employment income. In making this determination, I am aware that the Court must not impute income based on speculation or guesswork. There must be evidence that a party is realistically capable of earning income for the Court to impute income: *Haley v. Haley*, 2022 BCSC 1945 at para. 134. Given the foregoing, I will impute only a marginal amount of income to the claimant based on her future earning potential and to account for what appears to be overclaiming of expenses or undercharging of rent related to her rental income. In short, I find there is an evidentiary basis from her testimony that her health conditions are improving and that she wishes to work and therefore, some income should be imputed to her above the pension and rental income amounts she now receives.
- [57] Based on the foregoing, I conclude that for the purpose of calculating child and spousal support, the respondent has proven on a balance of probabilities that it is reasonable to impute income to the claimant of \$40,000 per year.

B. Guideline Calculation of Child and Spousal Support

1. Child Support

- [58] The parties agree that child support should be calculated based on shared parenting. Section 9 of the Guidelines outlines the considerations for shared parenting:

9 If each spouse exercises not less than 40% of parenting time with a child over the course of a year, the amount of the child support order must be determined by taking into account

- (a) the amounts set out in the applicable tables for each of the spouses;
- (b) the increased costs of shared parenting time arrangements; and
- (c) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.

- [59] It is trite law that the amounts set out in the applicable tables for each of the spouses "is to be considered as a starting point only in the calculation, not an end point. A court will depart from the set-off amount or make adjustments to it if it is inappropriate in light of the factors considered under sections 9(b) and 9(c)": *Smederovac v. Eichkorn*, 2020 MBCA 57 at para. 21; *Contino v. Leonelli Contino*, 2005 SCC 63 at para. 68.

- [60] The respondent accepts that he is to pay child support at least until the Child reaches the age of 19, which by my calculation is at the end of March 2026. It was unclear to me whether the Child might remain a child of the marriage for the purpose of child support after the age of 19, for example if he continues to live at home or pursue post secondary education and is unable to support himself. It appears this is yet to be determined.

- [61] Using the claimant's income of \$40,000 and the respondent's income of \$80,000, child support payable by the respondent to the claimant is \$389 per month. However, I am concerned that this is too marked a difference between the \$1,079 the respondent currently pays in child support. Accordingly, I order that the respondent will, commencing on January 1, 2025, up to and including March 1, 2026, pay monthly child support in the amount of \$500 to the claimant unless varied by written agreement of the parties or further order of the court.
- [62] My basis for increasing the support above the Guidelines amount stems from a concern that if there is a lag in the ability of the claimant to earn income or obtain disability benefits, it may negatively impact the standard of living of the Child while with his mother. In this regard, the Court has wide discretion as to the quantum of child support in a shared parenting arrangement, but must also have careful regard for the predictability of support amounts assessed under the Guidelines. In other words, while I must consider the set-off table amounts as a starting point, I can adjust the amounts of support in light of the factors considered under ss. 9(a) and 9(c): Contino.
- [63] Further, the respondent received a significant income in 2023 of over \$200,000 because of his severance package and payout when he retired from firefighting. That larger income was never reflected in an adjustment to child support for the year. In my view, any unfairness in the respondent paying more in child support until March 2026 is mitigated because he avoided paying child support at a significantly higher amount based on his 2023 income.
- [64] For clarity, I will order that the respondent's child support obligations terminate after his payment on March 1, 2026, unless otherwise agreed to in writing by the parties or by further order of the Court. I base this on the fact that the Child will reach the age of majority at the end of March 2026. However, if circumstances change such that the Child remains dependant on the parents, and a shared parenting time arrangement continues, the parties have liberty to either agree to continued child support, or to bring an application to Court to vary the child support order.

2. Spousal Support

1. General Framework

- [65] Given that the parties have divorced, the doctrine of paramountcy requires that the operative legislation for the Court to consider when determining spousal support is the Divorce Act. Section 15.2(6) of the Divorce Act, R.S.C. 1985, c.3 (2nd Supp.), sets out the objectives for spousal support:
- (a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;

- (b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
- (c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
- (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable time period.

[66] The court must take each of the four objectives into account, and no one objective is paramount: *Moge v. Moge*, [1992] 3 S.C.R. 813 at p. 852.

[67] Marriage is a joint endeavour and the longer the relationship lasts, the closer the economic interests of the parties become entwined. The result is that there will be a greater presumptive claim to equal standards of living upon the dissolution of the marriage.

2. Entitlement

[68] The respondent acknowledges that the claimant has entitlement to spousal support, either on a compensatory or non-compensatory basis. The issues before the Court are the reasonable amount of spousal support to be paid by the respondent to the claimant and how long the spousal support should continue: s. 15.2(6) of the Divorce Act.

[69] The basis for spousal support, whether compensatory, needs-based, or a combination of both, will impact the amount and duration of the spousal support awarded: *M.C.D. v. D.A.D.*, 2017 BCSC 1832 at para. 94; *A.K. v. N.K.*, 2012 BCSC 1499 at para. 115; *T.N. v. J.C.N.*, 2015 BCSC 439 at para. 144.

[70] Our Court of Appeal in *Zacharias v. Zacharias*, 2015 BCCA 376, outlined the basis for compensatory and non-compensatory spousal support:

[26] Compensatory entitlement will arise where, as a result of the parties' roles during the marriage, one spouse has suffered economic disadvantage or has conferred economic advantages on the other. Most often, such entitlement will arise where one spouse has sacrificed career opportunities in order to take on more of the family's household or child-rearing responsibilities. Upon the dissolution of the marriage, the spouse who has given up opportunities may be entitled to spousal support, either to compensate for diminished earning capacity, or to share in the augmented earning capacity of the other spouse. The main goal of compensatory spousal support is to provide for an equitable sharing of the economic consequences of the marriage (see *Moge v. Moge*, [1992] 3 S.C.R. 813 at 858-66).

[27] Non-compensatory support entitlement focuses on the needs of the spouses and on their respective means. It is based on the idea that spouses, by virtue of marriage, have some ongoing responsibility to care for one another. The degree to which non-compensatory principles will apply will depend on a close examination of not only the means and needs of the spouses, but also of the nature of the marital relationship and its duration (see *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420, particularly at para. 53).

[71] I conclude that, in applying the governing legal principles, the claimant has established entitlement to compensatory support. The parties both testified that during the marriage, the claimant provided most of the homemaking duties and raising of the Child, while the respondent was able to work outside of the home and increase his income opportunities. I accept that the claimant was economically disadvantaged based on the traditional roles of the parties in the marriage and, as such, she is to be compensated for the economic disadvantage that flows from the marriage and its subsequent breakdown: see *Chutter v. Chutter*, 2008 BCCA 507 at paras. 50-51; M.C.D. at para. 97.

[72] I also find that the claimant would be entitled to non-compensatory, or "needs-based" spousal support. As Justice McLachlin, as she then was, outlined in *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420:

48 Divorce ends the marriage. Yet in some circumstances the law may require that the healthy party continue to support a disabled party, absent contractual or compensatory entitlement. Justice and considerations of fairness may demand no less.

[73] In this case, I accept that, through no fault of her own, the claimant has suffered illness that has impaired her ability to earn income, and that the impairment was caused by the marriage. I also accept that the combination of the claimant being kept from the workforce and the possibility of training and advancement as well as her current health issues mean that the claimant is economically vulnerable. The responsibility for her economic well-being continues to rest, in part, on the respondent who was able to benefit economically throughout the 24 years of the marriage. In this regard, I am guided by the Supreme Court's finding in *Bracklow* that marriage is a serious commitment and has the potential to result in a lifelong obligation for spousal support:

57 Again the answer is that under the statutes, the desirability of freedom to move on to new relationships is merely one of several objectives that might guide the judge. Since all the objectives must be balanced, it often will not be possible to satisfy one absolutely. The respondent in effect seeks a judicially created "statute of limitations" on marriage. The Court has no power to impose such a limitation, nor should it. It would inject a rigidity into the system that Parliament and the legislatures have rejected. Marriage, while it may not prove to be "till death do us part", is a serious commitment not to be undertaken lightly. It involves the potential for lifelong obligation. There are no magical cut-off date.

[Emphasis in the original.]

[74] I must balance the respondent's obligation to support the claimant with the capital assets she has acquired by virtue of the marriage. In this respect, I acknowledge that the claimant has the benefit of a share of the respondent's pension and also owns the Commercial Building which is a capital asset that generates rental revenue.

[75] The Supreme Court requires that, in determining an award of spousal support, a court also consider the parties capital assets. In *Leskun v. Leskun*, 2006 SCC 25 Justice Binnie, writing for the Court, held:

29 There is no support in the case law or in logic for the proposition that the chambers judge was wrong to take into account the appellant's capital assets acquired after the marital break-up. In *Strang v. Strang*, [1992] 2 S.C.R. 112, the Court stated that the traditional understanding of the word "means" includes, "all pecuniary resources, capital assets, income from employment or earning capacity, and other sources from which the person receives gains or benefits" (p. 119). J. D. Payne and M. A. Payne elaborate as follows:

The word means includes all pecuniary resources, capital assets, income from employment or earning capacity, and any other source from which gains or benefits are received, together with, in certain circumstances, money that a person does not have in possession but that is available to such person. [Emphasis in original.]

3. Quantum and Duration

[76] The SSAG provides guidance for appropriate spousal support awards. An explanation is required if a court is to depart from the SSAG: *Hanson v. Hanson*, 2024 BCSC 1492 at para. 12, citing *Lightle v. Kotar*, 2014 BCCA 69 at para. 63.

[77] In *Bockhold v. Bockhold*, 2010 BCSC 214, the Court provides guidance on the factors to consider when determining the duration of spousal support:

[56] While there are no strict rules for determining the duration of a support order or "magical cut off dates" for spousal support, in a lengthy marriage where an entitlement to spousal support is acknowledged, the authorities generally favour an indefinite order: *Skelly v. Skelly*, 2007 BCSC 810 at para. 65. Time limited orders for maintenance are not the usual rule: *Nataros v. Nataros*, 2000 BCCA 55 at para. 6, 4 R.F.L. (5th) 290. The holding of the court in *Riad v. Riad*, 2002 ABCA 254 at para. 43, 10 Alta. L.R. (4th) 207, is apposite in this case:

After a long and traditional marriage, the ability of a stay-at-home parent to retrain or reintegrate into the workforce in order to become self-sufficient may be irreparably damaged. In such cases, an indefinite, long-term support order would generally issue: *Moge*, supra, at 861; *Linton*, supra, at 27, 31; *Jackson v. Jackson* (1989), 64 Alta. L.R. (2d) 298 (C.A.) at 299; *Sitwell v. Sitwell*, (1998), 50 B.C.L.R. (3d) 205 (C.A.) at 210; *Fox v. Fox* (1994), 153 N.B.R. (2d) 1 (N.B.C.A.) at 11; *Horvath v. Horvath* (1996), 109 Man. R. (2d) 20 (Q.B.) at 24-5; *Fontaine v. Fontaine* (1995), 14 R.F.L. (4th) 16 (Ont. Gen.Div.) at 21-2.

- [57] As the plaintiff is entitled to support until she has been fully compensated for the economic consequences of the marriage and its breakdown, unless the Court is satisfied that the plaintiff will achieve self-sufficiency during the limited term, an indefinite order of support should be granted: *Chrintz v. Chrintz* (1998), 41 R.F.L. (4th) 219 at paras. 59-60 (Ont. S.C.J.).
- [58] In my view, it is unlikely that the plaintiff will ever achieve a level of self-sufficiency, such that she will be able to enjoy a standard of living similar to the marital standard without support in the reasonably foreseeable future. While the court is obliged to promote the economic self-sufficiency of each spouse, this laudable objective will not be easy for the plaintiff to achieve. As noted above, failure to achieve self-sufficiency does not breach a "duty" and is simply one factor to be taken into account: *Leskun v. Leskun*, 2006 SCC 25 at para. 27, [2006] 1 S.C.R. 920. Given the plaintiff's background and limited experience, resulting in part from the role she assumed during the marriage and her disability, it is not surprising that some of her efforts to achieve self-sufficiency have lacked focus and displayed a lack of business judgment.
- [59] For these reasons, I consider an award of spousal support should be made in favour of the plaintiff on an indefinite basis. In his submissions, the defendant asked the court "to make a final decision in the matter of the quantum and duration of the plaintiff's entitlement to support without provision for a further review under s. 15.2". This position is supported by the court's decision in *Leskun v. Leskun*, 2006 SCC 25 at para. 39, [2006] 1 S.C.R. 920:

Insofar as possible, courts should resolve the controversies before them and make an order which is permanent subject only to change under s. 17 on proof of a change of circumstances. If the s. 15.2 court considers it essential (as here) to identify an issue for future review, the issue should be tightly delimited in the s. 15.2 order. This is because on a "review" nobody bears an onus to show changed circumstances. Failure to tightly circumscribe the issue will inevitably be seen by one or other of the parties as an invitation simply to reargue their case. That is what happened here. The more precise condition stated in the reasons of the trial judge was excessively broadened in the formal order. This resulted in a measure of avoidable confusion in the subsequent proceedings.

- [78] While the respondent seeks finality and an end to his spousal support obligations, I am not satisfied that in the circumstances of this case, including a long marriage and the claimant's economic dependence on the respondent during the marriage that it is appropriate to order a definite termination date to the spousal support. Instead, with the object to recognize that the parties' financial circumstances may change again as they age and financial situations may change, I will set spousal support to continue indefinitely, but set a review date when the respondent reaches the age of 65 years. As I will now describe, I also will order that the spousal support will both be decreased now and continue to decrease over time, to reflect the respondent's lessening income earning and income earning potential as well as accounting for the claimant's need to move towards greater economic self-sufficiency.

- [79] Under the SSAG, the range of monthly spousal support based on the claimant's income of \$40,000 and the respondent's income of \$80,000 when calculated using the "with child support" formula is \$0 per month at the low range, \$191 per month at the mid-range, and \$763 per month at the high range.
- [80] Applicable after the Child reaches the age of 19, the monthly spousal support under the SSAG using the "without child support" formula, is \$1,200 per month at the low range, \$1,400 at the mid-range, and \$1,562 at the high range.
- [81] As of February 1, 2021, the respondent pays the claimant \$2,575 in monthly spousal support, pursuant to the Second Interim Order.
- [82] Given the foregoing, while the Child remains a child of the marriage, I will order that the respondent pay the claimant \$1,000 in spousal support commencing on January 1, 2025 and continuing on the first of each month up to and including March 1, 2026, the date that the Child is no longer considered a child of the marriage.
- [83] I accept that this amount is above what is set out in the SSAG based on an income of \$40,000 for the claimant and \$80,000 for the respondent. However, the recommendations for duration of spousal support need not be slavishly adhered to: *McEachern v. McEachern*, 2006 BCCA 508 at para. 64. The SSAG is a guide and not as the "ultimate arbiter" of the duration of support: *Jordan v. Jordan*, 2016 BCSC 1354 at para. 78. Considering all the factors, in my view, it is appropriate as the claimant should be given time to adjust to the new and lower spousal support payments given her reliance on the award and her inability to work due to disability: *M.F.W. v. M.A.H.*, 2021 BCSC 1581 at para. 22, citing *Hathaway v. Hathaway*, 2015 BCSC 1458 at para. 59.
- [84] I also acknowledge that informing my decision regarding the amount of spousal support to ensure the claimant is adequately supported, is the claimant's testimony that, at present, she has significant costs for her pet which approach \$1,500 per month. However, she candidly and fairly testified that she did not expect these expenses to continue into the future because the pet is likely near the end of its life. Further, while the claimant testified that she is suffering economic hardship, she acknowledges that she has spent over \$100,000 in repair costs the Commercial Building. This is a significant factor in my decision to reduce the amount of spousal support the respondent is to pay to her. Put simply, the claimant has made decisions to invest her money into the Commercial Building. While this may ultimately be a sound commercial decision, in my view, if it is the cause of her precarious financial circumstances, it should not be solely the burden of the respondent to support her commercial investment decisions that have eroded her savings and as a result put her economic well-being in jeopardy.

- [85] Commencing on April 1, 2026, once the Child is no longer a child of the marriage, I am of the opinion that the spousal support should take a more nuanced format to reflect that the claimant should be moving towards economic self-sufficiency and also that the respondent will be likely working less as he approaches retirement age. I make this conclusion because one of the purposes of spousal support is to allow a party to become self-sufficient.
- [86] Accordingly, I order that the respondent is to pay the claimant monthly spousal support in the amount of \$1,400 commencing on April 1, 2026, for 12 months to March 1, 2027 which is the mid-range of the SSAG amount.
- [87] For the following two years, from April 1, 2027, to March 1, 2029, the respondent is to pay the claimant spousal support in the amount of \$1,100 per month. The reduced amount is to account for the fact that the respondent will be approaching his planned retirement and further, by that time, the claimant will have had more time to make financial decisions to assist with her retirement, which may include increasing the rent on the tenants of the Commercial Building, liquidating that asset, applying for government assistance, or returning to the workforce in some capacity.
- [88] From April 1, 2029, to March 1, 2030, the respondent will pay to the claimant \$900 per month. I will further order that the spousal support payable to the claimant shall be reviewed for the purposes of determining the parties' income and financial circumstances at the end of the review term after March 1, 2030, unless circumstances warrant that it be reviewed for periods prior to that date. I am ordering the review on the basis that the respondent will turn 65 years old in April 2030 which will coincide with the reduction of his disability benefit. Further, it would be expected that both parties have better determined what work, if any, they are able to secure. Finally, given the claimant's optimism about her health, she may be earning some form of income at that time.
- [89] In sum, I have considered the statutory objectives of spousal support. I have balanced the relevant factors and conclude that the claimant continues to be eligible for both compensatory and non-compensatory support based on the length of cohabitation, the contribution the claimant made to the family unit during the marriage, and the hardship that the marriage breakdown has imposed on her. I have also considered her need, and the respondent's financial ability to pay. As I have already described, in this case, the claimant's need has greatly been impacted by her serious and prolonged health issues, but she also has an obligation to take responsibility to adjust both her expenses and her income sources to attempt to move toward economic independence from the respondent.

C. Air Miles Loyalty Points

- [90] The issue of the parties' sharing of the Air Mile loyalty points was addressed in the May 2022 Order. However, I understand that due to constraints with Air Miles and the costs of dividing the points, the transfer of points from the respondent to the claimant was never achieved. During the trial, the parties agreed that the respondent would provide the claimant with

access to the Air Miles account. As I understand the respondent's position, to transfer the points to the claimant is an inefficient process. However, he is willing to provide the claimant with the Air Mile points for her sole use. This will involve providing her with the necessary information to allow the claimant to access and use the current account.

- [91] I accept that this appears to be a practical solution to the issue of the transfer of the Air Mile loyalty points. On a monetary basis, the issue may not be significant, but the issue has importance to the claimant because the Air Mile points were originally collected together by the parties and only the respondent has benefitted from their use since the breakdown of the marriage.
- [92] Accordingly, I order that within 15 days of this decision, the respondent is to make arrangements to allow the claimant to have unfettered access to the Air Mile loyalty account.

D. The Respondent's Life Insurance Policy

- [93] The respondent seeks an order to have the claimant removed as a beneficiary to the respondent's life insurance policy. The respondent no longer wishes to pay for a life insurance policy to benefit the claimant.
- [94] Section 170(e) of the FLA addresses life insurance in the context of the break down of marriage:
- 170 In an order respecting child support or spousal support, the court may provide for one or more of the following:
- (e) that a person who has a contract of life insurance within the meaning of Part 3 of the Insurance Act
 - (i) designate the person's spouse or child as a beneficiary, irrevocably or for the period designated by the court, and
 - (ii) either pay all premiums on the policy, or authorize the person's spouse to pay all premiums on the policy and to compensate the spouse for doing so;

- [95] As opposed to ordering that the respondent designates or pay premiums for the claimant, the respondent seeks to have his obligations under his current life insurance policy terminated so as to no longer have insurance naming the claimant as a beneficiary.
- [96] Many of the family law cases regarding insurance policies deal with a party asking that they be added as a beneficiary to an existing policy, or that a policy be purchased to ensure support obligations might continue after the death of a former spouse. However, due to the broad language of s. 12 of the Guidelines and s. 15.1(4) of the Divorce Act, I am satisfied that I have the jurisdiction to include an order to allow the respondent to terminate his life insurance policy that is for the benefit of the claimant: *R.E.Q. v. G.J.K.*, 2019 BCSC 1116 at para. 139, *aff'd Quinton v. Kehler*, 2020 BCCA 254. I accept that the decision to require a

payor to maintain a life insurance policy as security for child support is discretionary: R.E.Q at para. 140.

- [97] Relevant factors in the jurisprudence include the payor's history of complying with court orders, whether the payor is presently in arrears, and the payor's health: R.E.Q at para. 143; D.P.R. v. L.L.R., 2015 BCSC 2317 at paras. 68-69, 159; E.D.A. v. M.A.A., 2014 BCSC 1084 at paras. 90, 125, 135; Buck v. Buck, 2013 BCSC 449 at paras. 6, 8, 42; McIntosh v. McIntosh, 2007 BCSC 1331 at paras. 100-102; Milligan v. Milligan, 2001 BCSC 1059 at paras. 74, 189; Greenwood v. Greenwood (1998), 37 R.F.L. (4th) 422 (B.C.S.C.) at para. 45; Kemp v. Kemp, 2018 BCSC 381 at para. 62; Sarro v. Sarro, 2011 BCSC 1010 at para. 50; R.A.C. v. V.L.C., 2009 BCSC 1417 at para. 42.
- [98] Courts have generally declined to order security through a life insurance policy when the payor has a record of complying with their support obligations: K.R. v. J.D., 2017 BCSC 182 at paras. 60-61, aff'd 2018 BCSC 232; M.S. v. M.M. at para. 396; H.P. v. C.T.P., 2014 BCSC 2024 at para. 190; Greenwood at para. 45.
- [99] As referenced above, the respondent has not been delinquent in paying his support obligations and owes no arrears. Indeed, I commend him for his consistent payment of support amounts since the parties separated. While I accept that delinquency is not a pre-requisite for imposing security on support payments I find this is a compelling reason that he not be required to maintain security for his support obligations: Kooner v. Kooner, 2015 BCSC 1880 at para. 45. Further, in this case, there is no evidence that the respondent is in poor health.
- [100] Based on the totality of evidence before me, I am satisfied that the respondent should be permitted to remove the claimant as a beneficiary from his life insurance policies. To the extent the claimant is seeking an order that the respondent maintains life insurance policies naming her as a beneficiary, that relief sought is dismissed.

IV. Summary of Orders

[101] In summary, I make the following orders:

Child Support

1. The respondent shall pay child support for the child of the marriage, J.K, of \$500 per month commencing on January 1, 2025 and the first of each month thereafter up to and including March 1, 2026, the month in which J.K turns 19 years of age, thus no longer being a child of the marriage;

Spousal Support

2. The respondent shall pay spousal support to the claimant of \$1,000 per month commencing on January 1, 2025, and the first of each month up to and including March 1, 2026, the month in which the Child is no longer a child of the marriage;
3. Commencing on April 1, 2026, and up to and including March 1, 2027, the respondent will pay spousal support of \$1,400 per month to the claimant based on the claimant's income of \$40,000 and the respondent's income of \$80,000;
4. Commencing on April 1, 2027, up to and including March 1, 2029, the respondent will pay spousal support of \$1,100 per month to the claimant;
5. Commencing on April 1, 2029, and continuing until varied by written agreement between the parties or further order of the Court, the respondent will pay spousal support of \$900 per month to the claimant;
6. The spousal support payable after the payment made on March 1, 2030, shall be reviewed upon either party applying to the Court to review the spousal support payments based on a consideration of the parties' incomes and financial circumstances. For clarity, the application may be filed in advance of March 1, 2030, for payments to be varied on and after March 1, 2030;
7. The parties may apply to the Court to vary the spousal support order for payments occurring before March 1, 2030, if there is a material change in circumstances that warrants a change to the spousal support;

Air Miles

8. To the extent it is permitted by Air Miles policy, the respondent shall provide his Air Mile Card and associate account to the respondent for her exclusive use within 15 days of this Order. The respondent will provide the claimant with any required information needed to facilitate that request and the claimant shall have exclusive use of the Air Mile Card from that date onward, subject to any Air Mile policies or regulations;
9. Terms 29 and 30 of the Consent Order of May 4, 2022, are varied to the extent required to satisfy the terms of this order;

Respondent's Life Insurance Policy

10. The respondent may change the designation of beneficiaries of his life insurance policies such that the claimant is no longer a beneficiary or may cancel his life insurance policies upon his sole discretion, if otherwise permitted by law; and
11. The claimant will provide any necessary documentation to facilitate that she will no longer be the designated beneficiary of respondent's life insurance policies.

[102] I direct that the respondent's counsel draft this order. I further order that the claimant's signature is dispensed with on this order, but the signed draft order should come back to my attention for final review to ensure it accords with my decision.

V. Costs

[103] M.D.K.'s counsel submitted that this is an appropriate case for the parties to bear their own costs. The general rule in respect of costs is that the party who is substantially successful is entitled to his or her costs: *Gold v. Gold* (1993), 106 D.L.R. (4th) 452, 1993 CanLII 1248 (B.C.C.A.) at para. 19. This general rule accords with Rule 16-1(7) of the Supreme Court Family Rules, B.C. Reg. 169/2009, that costs must be awarded to the successful party unless the court orders otherwise.

[104] However, there is a discretion available to the court as to whether costs should be ordered. This discretion is exercised with a view to various factors, such as hardship, the purpose of the court's award in regard to the parties' financial circumstances, and the importance of not upsetting the balance achieved by the award. In my view, based on the foregoing considerations, this is an appropriate case to order that the parties are to bear their own costs.

[105] However, if there are issues of which I am unaware that may impact costs, such as offers to settle, the parties may, within 30 days of this order request to appear before me for the purpose of making further submissions on costs.

VI. Conclusion

[106] In the course of this trial, it struck me that the parties were extremely civil towards each other, and while they held different views as to the amounts of spousal support that should be paid by the respondent to the claimant, they generally held little animus towards each other. This can be unusual in family law proceedings that progress to a trial. My hope is that this judgment provides some additional resolution to the parties' circumstances, thus that they may move productively forward in their lives.

[107] I thank counsel for M.D.K. and A.M.K. on her own behalf for their submissions.

"Gibb-Carsley J."

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