

CANADA / JUDGMENT

Alkuhlani v. Alkebsi

2025 BCSC 522

COURT

Supreme Court of British Columbia

DECIDED

24 March 2025

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2025 BCSC 522 Alkuhlani v. Alkebsi

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Alkuhlani v. Alkebsi,

2025 BCSC 522

Date: 20250324

Docket: E66473

Registry: New Westminster

Between:

Khawlah Abdulmalek Hamood Alkuhlani

Claimant

And

Mohammed Ibrahim Alkebsi

Respondent

Before: The Honourable Justice Chan

Reasons for Judgment

Counsel for the Claimant:

S. Saran

The Respondent, appearing in person:

M.I. Alkebsi

Place and Dates of Trial:

New Westminster, B.C.

February 24-28, 2025

Place and Date of Judgment:

New Westminster, B.C.

March 24, 2025

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Introduction

- [1] The parties married in Saudi Arabia in 2004. They have three children: a daughter born in 2006 and a son born in 2009, both in Saudi Arabia, and a son born in 2021 in Canada. The claimant in this action is the mother. She moved to Canada in 2016 with the two older children. In 2016, the parties bought a family residence, a townhouse in Surrey. The father, the respondent in this proceeding, came to Canada in 2017.

- [2] The parties separated in 2020 after the respondent expressed his desire for an Islamic divorce. He left the home for a short time but the parties reconciled. They had their third child in 2021, and continued to live together until April 1, 2022. On that date, the respondent moved out of the family home. They have lived separately since that date.
- [3] The parties have for the most part been following a parenting schedule where the respondent has the children on Tuesdays and Thursdays, and every other weekend. The parties wish to formalize that arrangement in a court order. The main issues for determination at this trial are the division of family property, being the townhouse, and family debt. Additionally, the claimant seeks child support, including retroactive child support, and spousal support on a prospective basis. Finally, the parties seek a divorce.

The Evidence

- [4] Both parties testified. I found both of them to be credible. The claimant provided detailed descriptions of the events surrounding their relationship. She had no difficulty agreeing to facts that were against her interest. I found the respondent also forthright in his evidence. For the most part, the parties did not disagree on the facts, but chose to interpret them differently. I make the following factual findings.
- [5] The parties' marriage was arranged through their parents. They married in Saudi Arabia in 2004. They did not know each other before the wedding. At the time, they lived in Al Khobar. The parties had traditional roles within the marriage. The respondent was employed in the human resources field and earned a good income. The claimant stayed home and raised the children.
- [6] The claimant had further restrictions imposed on her from both the culture and the respondent, including on when she could sleep, wake, and what she could wear. The respondent did not permit the claimant to watch television or to leave the house without being accompanied by him or her brother. Though the claimant and the respondent had attended the same program at university after they were married, the respondent restricted the claimant from working after graduation. He wanted her to stay home, to which the claimant agreed. I accept the claimant's description that she lived a life of restrictions in Al Khobar while the respondent enjoyed freedom of choice.
- [7] In 2009, the parties moved to Riyadh, as the respondent had obtained a better job there. The claimant testified that, although her family lived in Riyadh, she was not allowed to visit them without the respondent's permission. The respondent was dedicated to his career and often worked overtime. The respondent's role was to be the breadwinner. The claimant was responsible for taking care of the children; her role was in the home.

- [8] The claimant testified that in 2012, after a few years living in Riyadh, the respondent changed his views and became very liberal in his thinking. He now granted the claimant more freedom in what she wore, who she saw, and where she went. They travelled to various overseas locations, such as the Maldives and Bali, and attended a university program together in Europe. The claimant testified she was happy with her increased independence.
- [9] In March 2016, the claimant moved to Canada with her two older children. The claimant testified it was the respondent's idea to move to Canada. The claimant also wanted to immigrate, as she wanted a life with more options for her daughter. The respondent travelled with them to Canada but returned to Saudi Arabia after a couple of weeks to continue working in Riyadh. The claimant and her two older children lived in a rental basement suite in Vancouver for approximately six months. The respondent supported the family by transferring money to the claimant from Saudi Arabia. The parties bought their family home in August 2016.
- [10] The claimant applied for refugee status after she arrived in Canada and was able to sponsor the respondent, who immigrated to Canada in 2017. The claimant took English classes and a course in cake decorating. She had briefly worked with her sister in Saudi Arabia on a bakery startup business before moving to Canada. The claimant enjoyed baking and believed this could be a viable business. She began working at bakeries to obtain some experience. She testified the jobs were physically demanding with minimal pay. After the move to Canada, the childcare, cooking and cleaning responsibilities were shared, with the claimant describing their relationship as more of a partnership. The claimant was working outside the home and the respondent looked after the children.
- [11] Initially, after his move to Canada, the respondent wanted to open a business. He had various ideas, like a bakery, a butcher shop, a recruitment agency and an import-export business. None of these ideas were successful. By early 2019, the couple's savings were becoming depleted and the respondent started taking on various jobs for income, such as working in retail and as a painter's helper at the airport. In late 2019, the respondent found a job working in human resources, earning approximately \$70,000.00 annual salary. The claimant wanted to quit her job at the bakery, and the respondent advised her to wait until he completed his probationary period in January 2020. After this occurred, the claimant quit her bakery job and focussed on improving her English. Her only income at that time was the government's monthly childcare benefit payment of approximately \$800.00.
- [12] In March 2020, there was an incident in the family home. The respondent accused the claimant of cheating on him with his brother. This was a traumatic incident for everyone, as the children witnessed the respondent attack his brother outside. The parties' argued in front of the children. The claimant called a mutual friend to come to the house to try to calm the situation. In retrospect, it appears the respondent was suffering a mental health crisis during this period of time. In his testimony, the respondent referred to this incident as a tragedy in their family. The respondent had secretly installed surveillance cameras and listening devices throughout the home, and he became convinced of the affair. However,

there was never any evidence of it, and the claimant and her friend who listened to the audio recordings describe them as purely background noise, and proof of nothing.

- [13] Between March and May of 2020, the respondent began to declare his intention to seek an Islamic divorce. In an Islamic divorce, the parties have three months to reconcile. The respondent left the family home twice for a few days each time. The claimant testified the respondent's behaviour was erratic. Sometimes he was apologetic and other times he demanded an apology from her. The claimant found a psychologist, and the parties attended together with some individual sessions. When he returned home in May 2020, the respondent gathered all the surveillance devices he had and destroyed them in the garage, with the claimant as the witness. He apologized to the claimant during a video call with his family. He expressed his gratitude that the claimant never left him and supported him during his darkest time. The respondent told the children that he was wrong about the affair. The claimant testified they wanted to start a new chapter. The claimant became pregnant in June 2020 with their third child.
- [14] The parties started having financial difficulties in 2020. The respondent testified that he was not able to make up the difference in income after the claimant quit her job at the bakery. In July 2020, the claimant agreed with the respondent to obtain a line of credit at the Bank of Montreal, secured against their family home. While initially the respondent wanted to have the amount set at \$300,000.00, the claimant refused and the amount was set at \$100,000.00. The claimant testified the line of credit was intended to be used only for emergencies. However, the respondent withdrew large amounts of cash from the line of credit without her knowledge. The respondent testified when the claimant quit her bakery job in January 2020, the family lost approximately \$2000.00 of monthly income. He needed the line of credit to bridge the gap. In 2021, the respondent started working at Amazon as a second job to make extra cash.
- [15] The reconciliation did not last long. In early 2022, the respondent again began to separate himself from the family. The parties separated on April 1, 2022. The respondent moved out of the family home and rented an apartment in Langley. Initially, the respondent returned home everyday to see the children. However, there was no set schedule. This proved to be difficult for the claimant to make plans, and also for the two older children, who were teenagers. The claimant took steps to arrange for mediation. The parties agreed on a parenting schedule by the summer or fall of 2022 with the assistance of a family justice counsellor.
- [16] The respondent provided the claimant with child support for a few months after separation, but then stopped providing any money by January 2023. The respondent continued to pay the mortgage and utilities for the family home. The amount he paid the claimant was below the child support advisory guidelines. The claimant filed her Notice of Family Claim in January 2023, seeking child support.

- [17] In October 2023, the parties attended a judicial case conference. An order was made that the respondent pay child support of approximately \$2,400.00 a month, and the claimant became responsible for paying the mortgage and the expenses for the home.
- [18] In April 2020, the claimant started studying to become an insurance agent. She obtained her insurance licence in 2021 and currently works in a financial group. She also has a job with an immigration firm as the marketing director for the Arabic team, selling insurance to new immigrants. She has an annual salary of approximately \$54,000.00 with a potential for a bonus if targets are exceeded.
- [19] Currently, the respondent is earning approximately \$150,000.00 annually working as a chief operating officer of a foods company.

Issues

[20] The issues for determination are:

1. How much should the respondent pay for child support and s. 7 expenses?
 2. Is the claimant entitled to spousal support?
 3. Should the family debts be divided unequally?
 4. Should the family property be divided unequally?
 5. Should the respondent be awarded occupational rent?
 6. What are appropriate parenting arrangements?
 7. Should a divorce be granted?
- 1) How much should the respondent pay for child support and s. 7 expenses?

[21] The claimant seeks retroactive child support from the date of separation.

[22] D.B.S. v. S.R.G., 2006 SCC 37 confirms that the court has jurisdiction to make a retroactive award of child support under s. 15.1 of the Divorce Act, R.S.C. 1985, c 3 (2nd Supp). A retroactive support is discretionary. The starting point of the analysis in D.B.S. is the recognition that support is the right of the child. Where one or both parents fail to vigilantly monitor child support payments, "the child should not be left to suffer without a remedy": D.B.S. at para. 60.

[23] D.B.S. cites a non-exhaustive list of factors for the court to consider in undertaking this holistic assessment at paras. 100-135. These factors include the reason for the delay in seeking support, the conduct of the payor parent, the circumstances of the child, and any hardship from a retroactive award to the payor parent.

- [24] In D.B.S., the Court established that the date of retroactivity is the date when effective notice was given to the payor parent that child support should be paid or increased. "Effective notice" consists of any indication from the recipient parent that child support needs to be paid or renegotiated. Once such indication has been given, the payor parent can no longer assume that the status quo is fair and their interest in certainty is less compelling: D.B.S. at para. 121.
- [25] However, once the recipient parent raises the issue of child support, they are still obliged to move the discussion forward. A prolonged period of inactivity after effective notice may indicate that the payor parent's reasonable interest in certainty has returned. Absent blameworthy conduct by the payor parent, it will usually be inappropriate to make a support award retroactive to a date more than three years before formal notice was given: D.B.S. at para. 123.
- [26] In this case, the evidence is the claimant asked for support shortly after the respondent left the family home. The claimant was unemployed at the time with three children. The respondent paid \$1,000.00 in April 2022, then made payments of \$650.00 per month from May to August 2022. He paid \$1,150.00 in September 2022, then did not pay in October and November. In December 2022, he paid \$300.00, and the last payment was \$1,000.00 in February 2023. In October 2023, the claimant obtained a court order that the respondent pay \$2,400.00 a month in child support, and he has paid that amount since November 1, 2023. Based on the respondent's income from April 1, 2022 to February 1, 2025, the claimant has calculated the amount of child support that ought to have been paid in this period to be \$76,228.00. The respondent paid \$44,450.00. The claimant seeks this shortfall of \$31,778.00.
- [27] The respondent is opposed to an order of retroactive child support. He argues after separation, he made the mortgage payments and paid for utilities. He had his own expenses to pay. He argues the claimant's request for child support was unreasonable, and that she did not diligently pursue her claim of child support.
- [28] I find the date of effective notice was January 2023, when the claimant filed her notice of family claim. It was clear from that point the claimant was seeking child support. The claimant was diligent in trying to bring this matter to trial. In terms of blameworthy conduct, I find the respondent ignored the claimant's request for child support due to his other expenses. Even where a payor spouse does nothing active to avoid their obligations, they may still be acting in a blameworthy manner in consciously choosing to ignore them: D.B.S. at para. 107.
- [29] Considering the circumstances of the children, I find they would benefit from a retroactive award. They lived with financial insecurity for a period of time, as the claimant had to establish herself in the workforce. The claimant testified the children were afraid of losing their home due to the parents' debts. A retroactive child support award would assist the children in being able to stay in their home. In terms of hardship to the respondent, I find the respondent's income has almost doubled from the date of separation to today. Further,

the claimant proposes the lump sum award be deducted from the respondent's share of the proceeds of the family home. In these circumstances, a retroactive award would not constitute undue hardship for him.

[30] I find the respondent should pay an award of retroactive child support of \$31,778.00.

[31] The respondent will pay child support of \$2,218.00 per month prospectively.

[32] I find the claimant's Federal Child Support Guidelines, SOR/97-175 income to be \$32,000.00, and the respondent's income to be \$155,000.00 annually. Section 7 of the Guidelines provides for the sharing of certain types of special or extraordinary expenses. There will be an order that the parties share s. 7 expenses, with the claimant paying 17% of s. 7 expenses and the respondent paying 83% of the expenses. The respondent is to reimburse the claimant the daycare and preschool expenses for the youngest child in the amount of \$1,390.25.

[33] The parties will exchange financial information by July 1 of each year to recalculate support payments.

2) Is the claimant entitled to spousal support?

[34] The claimant seeks spousal support prospectively, to be awarded as a lump sum award. She argues she is entitled to spousal support on both a compensatory and non-compensatory basis.

[35] Spousal support orders may be made under either the Family Law Act, S.B.C. 2011, c. 25 [FLA] or the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.). The objectives and factors that must be considered for spousal support mirror each other in both legislations: *Li v. Liu*, 2014 BCSC 1110 at para. 35.

[36] The fundamental principles underlying spousal support are described by our Court of Appeal in *Chutter v. Chutter*, 2008 BCCA 507:

[45] Section 15.2 of the Divorce Act is the main provision governing entitlement to spousal support. Subsection 15.2(6) provides that a spousal support order should meet the following objectives:

- (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 period of time.

- [46] In order to achieve a fair and equitable distribution of resources, all four of these objectives should be examined: *Moge v. Moge*, 1992 CanLII 25 (SCC), [1992] 3 S.C.R. 813 at 850-853, 43 R.F.L. (3d) 345. Having regard to these policy objectives, courts must consider the condition, means, needs and other circumstances of each spouse, including the factors set out in s. 15.2(4):
- (a) The length of time the spouses cohabited;
 - (b) The functions performed by each spouse during cohabitation; and
 - (c) Any order, agreement or arrangement relating to support of either spouse.
- [47] Based on the statutory provisions and the case authorities, the Supreme Court of Canada has identified three grounds for entitlement to spousal support: (1) compensatory support, which primarily relates to the first two objectives of the Divorce Act; (2) non-compensatory support, which primarily relates to the third and fourth objectives; and (3) contractual support (citation omitted).
- [50] Compensatory support is intended to provide redress to the recipient spouse for economic disadvantage arising from the marriage or the conferral of an economic advantage upon the other spouse. The compensatory basis for relief recognizes that sacrifices made by a recipient spouse in assuming primary childcare and household responsibilities often result in a lower earning potential and fewer future prospects of financial success (*Moge*, at 861-863; *Bracklow*, at para. 39).
- [37] The claimant seeks spousal support in the mid-range for approximately 13 years to be paid as a lump sum. Based on Guidelines income of \$155,000.00 for the respondent and \$51,987.00 for the claimant with child support for two children, spousal support for 13 years is \$888.00 monthly or \$84,664.00 as a lump sum. The claimant proposes the lump sum ought to be deducted from the respondent's share of the proceeds from the family home.
- [38] The respondent is not opposed to paying spousal support in the mid-range. He made no submissions on the duration of a spousal support order. However, he is opposed to tendering payment as a lump sum, though he provided no reasons.
- [39] In my view, the claimant is entitled to spousal support on both the compensatory and non-compensatory bases. She has been economically disadvantaged as a result of the marriage by assuming childcare responsibilities while the respondent pursued his career. She supported him throughout their marriage in Saudi Arabia, staying home to raise the children as the parties agreed. The respondent was able to earn a high income in Saudi Arabia, and amassed experience in his field. While she had studied the same program, the claimant did not have the same opportunity to work. After the parties moved to Canada, the respondent has been able to attain his current position with a generous salary, partly due to his prior work experience. The claimant did not work outside the home until she came to Canada. She has recently upgraded her skills and obtained her insurance licence. She has done well for herself, but her income is less than a third of the respondent's.

[40] On a non-compensatory basis, the claimant has a need for spousal support, as she has three children, the youngest being less than five years old. She requires spousal support for some time to gain economic self-sufficiency. I do not agree that the duration of the award needs to be 13 years. The claimant is currently 41 years old and the respondent is 44 years old. She is well on her way to economic self-sufficiency. In my view, a fair award is a lump sum award of \$66,000.00. This represents spousal support in the mid-range for approximately 10 years. As this amount can be deducted from the respondent's share of the family home, I find a lump sum award will not cause hardship for the respondent.

3) Should the family debts be divided unequally?

[41] Family debt is defined in s. 86 of the FLA as including all financial obligations incurred by a spouse during the relationship. Under s. 81 of the FLA, there is a presumption in favour of an equal division of family debt. That presumption is subject to s. 95 of the FLA which grants the court a discretion to order unequal division if equal division would be significantly unfair. Our Court of Appeal has interpreted the term "significantly unfair" to mean "unfairness [that] is compelling or meaningful having regard to the factors set out in s. 95(2)" and "something objectively unjust, unreasonable or unfair in some important or substantial sense": *Namdarpour v. Vahman*, 2019 BCCA 153 at para. 60.

[42] The parties had the following debts as at the date of separation:

The Mortgage

[43] The mortgage balance on the family home is currently \$211,916.15. The parties agree that this is family debt and should be divided equally.

The Line of Credit

[44] The parties hold a line of credit with the Bank of Montreal with a balance in the approximate amount of \$99,192.48. The respondent agreed at trial he would not pursue \$11,000.00 of this amount as a family debt. This leaves an approximate balance of \$88,192.48 on the line of credit as a family debt. The claimant seeks to divide this debt unequally by allocating the whole amount to the respondent. The respondent seeks equal division of this debt.

[45] The claimant argues the respondent withdrew all the funds on the line of credit without her knowledge or consent. She does not know where the money went. She testified the line of credit was intended for emergencies, and the family did not have any emergencies in 2020 and 2021, the years in which the funds were spent. She argues dividing it equally would be significantly unfair, as the debt was not incurred by her and the funds were not used for the family. She relies on s.95(2)(d) of the FLA, arguing the debt was not incurred in the normal course of the relationship.

- [46] In my view, the balance on the line of credit ought to be divided equally. I accept the respondent's evidence that the parties were struggling financially in 2020, and he had difficulty paying the bills. The claimant was not working during those years, and the loss of her income proved challenging. While the respondent may not have made the best spending decisions, the court does not accept the contention that none of these funds went towards the family's expenses. The evidence is the respondent was, from 2020 to separation, primarily the person responsible for meeting the family's financial obligations. The withdrawals from the line of credit occurred before separation and the claimant has not shown equal division of this debt would be significantly unfair.
- [47] The balance of \$88,192.48 on the line of credit will be divided equally. Each party is responsible for \$44,096.24.

Credit Cards

- [48] The respondent had balances on three credit cards in the amount of \$21,952.00 on the date of separation. The claimant had a credit card debt of \$1,975.00 on the date of separation.
- [49] These debts should be divided equally as these debts occurred during the relationship.
- [50] The claimant owes the respondent \$10,976.00; the respondent owes the claimant \$987.50. This results in a payment of \$9,988.50 from the claimant to the respondent.

Debts Incurred Post Separation

- [51] The respondent claims unequal division of debts he incurred after separation. He claims for the amount of approximately \$77,268.00 owing to Fairstone, Easy Financial and various friends and family members. He also claims for the amount of approximately \$34,000.00 owed to his previous counsel who has filed a certificate of pending litigation on the family home. He argues these debts should be paid fully by the claimant.
- [52] However, these amounts are not family debt, as these financial obligations were not incurred during the relationship.
- [53] The only amounts recoverable are funds spent to maintain family property: s. 86(b) of FLA. These funds are the following: The respondent paid the mortgage from April 2022 to October 2023. His total mortgage payments are \$25,028.42. The claimant paid the mortgage from November 2023 to February 2025. Her total mortgage payments are \$24,098.83. The claimant also paid strata fees for April 2022 to February 2025. Her total strata fees are \$15,608.98.
- [54] These amounts ought to be divided equally. This results in a payment of \$7,339.70 from the respondent to the claimant.
- 4) Should the family property be divided unequally?

- [55] The only asset to be divided is the family home. The claimant seeks equal division of the family home. While the respondent initially sought unequal division, claiming the family home should be allocated 60% to him, he conceded during submissions it ought to be divided equally.
- [56] The claimant seeks to buy out the respondent's share of the family home. The only evidence before the court as to value is the assessed value of the home. I am advised neither party had obtained an appraisal. The respondent agrees the assessed value can be used to calculate the buyout.
- [57] The assessed price is \$771,000.00. The current mortgage balance is \$211,916.15. The equity is approximately \$559,084.00. Dividing the equity in half is \$279,542.00 for each party. The following amounts should be subtracted from the respondent's equity:
- i. half of the claimed amount for the line of credit (\$44,096.24);
 - ii. the amount from the line of credit used to repay a personal loan that he is no longer claiming (\$11,000.00);
 - iii. the retroactive child support (\$31,778.00);
 - iv. the reimbursement for the daycare and preschool (\$1,390.25);
 - v. the fees owed by the respondent to his previous counsel (\$34,000.00);
 - vi. the lump sum spousal support award (\$66,000.00); and
 - vii. the adjustment for the mortgage and strata fee payments (\$7,339.70).
- Added to the respondent's half of the equity should be \$9,988.50 for the credit card debts. The claimant can buyout the respondent by making an equalization payment to him of \$93,926.31.
- [58] The claimant seeks 90 days to arrange financing. The respondent argues she should be given only 30 days. In my view, the claimant ought to have 90 days to see if she can arrange financing. She is currently paying the mortgage and expenses for the home. The only prejudice to the respondent is a delay in receiving his share of the proceeds. I accept the claimant's evidence that being able to stay in the home is very important to her and her children, as they have community ties to the neighbourhood. She ought to be afforded a reasonable amount of time to see if she can buy out the respondent's share before the house is put on the market.
- [59] After 90 days, if the claimant cannot buyout the respondent, the house will be listed for sale with both parties having joint conduct of sale. Each party will enlist a realtor, and the parties with the assistance of the two realtors will decide on a listing price.
- 5) Should the respondent be awarded occupational rent?

[60] While the respondent has claimed occupational rent, he provided no evidence of monthly rental amounts. In any event, I do not find occupational rent is justified in the circumstances. While the respondent had to rent an apartment after separation, incurring additional expense, the claimant was left with insufficient child support, no job and three children. The claimant had the responsibility to pay strata fees and some expenses during this time, including the minimal payments on the line of credit to prevent foreclosure. The parties contributed equally to a strata special assessment and an overdue credit card bill. After November 2023, about a year and half after separation, the claimant began making the mortgage payments plus house expenses.

[61] The claim for occupational rent is dismissed.

6) What are the appropriate parenting arrangements?

[62] The oldest child is now 19 years old and no longer a child of the marriage: FLA, s. 1. The parties agree they are both joint guardians of the two younger children with equal parenting responsibilities pursuant to s. 41 of the FLA. If the parties cannot agree on a decision affecting the children, they will meet with a family justice counsellor. If the parties do not agree with the decision of the family justice counsellor, they may apply to court.

[63] The parties agree not to travel with the children outside British Columbia without the prior written consent of the other party.

[64] The respondent is to have the following parenting time:

- a) every Monday and Thursday from 6 pm to 8:30 pm;
- b) every other weekend from Friday at 6 pm to Sunday at 8:30 pm;
- c) every Christmas Eve from 5 pm; and
- d) on his birthday from 5 pm to 8:30 pm.

[65] The claimant is to have the following parenting time:

- a) during the times not expressly indicated above as being allocated to the respondent; and
- b) on her birthday from 5 pm to 8:30 pm.

[66] During the following religious festivals, the parties will observe the parenting arrangements below:

- a) On Eid al-Fitr, the claimant is to take the children for the Eid prayer, and the respondent will have parenting time from 5 pm until 8:30 pm. The claimant will send the location of the Eid prayer 24 hours before prayer time, and the respondent will see the children during the prayer time.

- b) On Eid al-Adha, the respondent will have parenting time from 6 pm the day before until 5 pm the next day. The respondent will send the location of the Eid prayer to the claimant 24 hours before prayer time, and the claimant will see the children during the prayer time.
- [67] Each party will have two weeks of vacation time with the children during the summer holidays. The dates will be agreed to between the parties in advance in writing.
- 7) Should a divorce be granted?
- [68] The parties agree on a divorce. I am satisfied the requirements have been met as the parties have lived separate and apart for more than one year, and on the evidence, there is no possibility of reconciliation. Reasonable arrangements have been made for the support of the children. The parties are hereby divorced from each other, the divorce to take effect on the 31st day after the date of this order.

Conclusion

[69] The Court makes the following orders:

1. Pursuant to s. 15.1 of the Divorce Act, the respondent will pay an award of retroactive child support of \$31,778.
2. Pursuant to s. 15.1 of the Divorce Act, the respondent will pay child support of \$2,218.00 per month prospectively.
3. The parties will share s. 7 expenses, with the claimant paying 17% of s. 7 expenses and the respondent paying 83%. The respondent is to reimburse the claimant the daycare and preschool expenses for the youngest child in the amount of \$1,390.25.
4. The parties will exchange financial information by July 1 of each year to recalculate support payments.
5. Pursuant to s. 15.2 of the Divorce Act, the respondent will pay a lump sum award of \$66,000.00 for spousal support.
6. The mortgage balance will be divided equally as family debt.
7. The claimed portion of the line of credit is \$88,192.48 which will be divided equally. Each party is responsible for \$44,096.24.
8. The remaining \$11,000.00 of the line of credit balance is allocated to the respondent.
9. The balances on the respondent's three credit cards in the amount of \$21,952.00 on the date of separation and the claimant's credit card debt of \$1,975.00 on the date of separation are family debts, to be divided equally.
10. The respondent's mortgage payments post separation and the claimant's mortgage payments and strata fees post separation are family debts, to be divided equally. All other debts of the respondent post separation are not family debts.

11. The claimant can buyout the respondent's share of the family home using the assessed price of \$771,000.00. The buyout amount is calculated to be \$93,926.31. The claimant has 90 days from the date of this order to buyout the respondent. If the claimant fails to do so, the property will be listed for sale with both parties having joint conduct of sale. Each party can retain a realtor.
 12. The claim by the respondent for occupational rent is dismissed.
 13. The parties agree on the parenting schedule as set out above.
 14. The parties are divorced from each other, the divorce taking effect on the 31st day after the date of this order.
- [70] In my view, success has been mixed. Neither party achieved substantial success. Each party shall bear its own costs. I find as well no costs order is appropriate as it is important not to upset the balance between the parties intended by this Court's award: see *M.N. v. C.G.F.*, 2020 BCSC 2071 at para. 7, citing *Gold v. Gold*, [1993] B.C.J. No. 1792 (B.C.C.A.) at para. 20.

"Chan J."

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Prepared on 24 October 2026 · Esheria