

CANADA / JUDGMENT

Bee v. Key

2025 BCSC 2217

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 2217 Bee v. Key

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Bee v. Key,

2025 BCSC 2217

Date: 20251107

Docket: E22671

Registry: Duncan

Between:

Alison Rose Bee

Applicant

And:

Michael Anthony Key

Respondent

Before: The Honourable Justice Young

Reasons for Judgment

Counsel for the Attorney General

of British Columbia as Amicus:

J. S. Monier-Williams

The Applicant in person by MS Teams:

A. R. Bee

The Respondent in person:

M. A. Key

Place and Date of Hearing:

Duncan, B.C.

October 1, 2025

Place and Date of Judgment:

Duncan, B.C.

November 7, 2025

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Introduction

- [1] The applicant Alison Bee brings an application for a support variation order pursuant to the interjurisdictional support variation application proceeding under the Divorce Act, R.S.C. 1985, c. 3, s. 18. Ms. Bee is a resident of Ontario and seeks to vary a support order made under the Divorce Act on July 8, 2008 for child support of \$367 per month for the support of the parties' daughter Ella Bee born December 4, 2007. The child support order was based on a finding that Mr. Key's Guidelines income was \$40,000 per year. Ella is now 17 and is attending University.

- [2] On January 25, 2024 the applicant submitted an application to the designated authority in Ontario for a variation of child support. She seeks an order adjusting child support to reflect the appropriate Federal Child Support Guidelines SOR/97 - 175 (the Guidelines) table amount. Ms. Bee has never applied to vary the 2008 child support order. She seeks a variation back 14 years to 2011.
- [3] The child support order also requires that Mr. Key maintain the child and applicant on his health and dental benefits available to him through his employment for as long as he is required to support the child and the benefits are available and for the applicant for as long as she remains eligible for the benefit coverage. There is no order with respect to Section 7 special and extraordinary expenses nor is there an order requiring Mr. Key to provide his financial information annually.
- [4] Mr. Key is ordinarily resident in British Columbia. He was served with the application on April 25, 2024. A hearing was scheduled for July 2, 2024. On June 28, 2024, he filed an application to pay child support different than child support table amount claiming undue hardship because he has an obligation to pay child support for two other children. As a result, amicus filed a requisition requesting a remote hearing scheduled for September 29, 2025 so that Mr. Key could testify as to his undue hardship. Ms. Bee was also granted leave to attend the hearing remotely. I heard evidence from both parties prior to making this decision.

Legal principles

- [5] Section 25 of the Guidelines requires every spouse against whom a child support order has been made, on the written request of the other spouse, to provide the other spouse with proof of income documents as set out in s. 21 (1). Those documents include a copy of every personal income tax return filed by the spouse for each of the three most recent taxation years, and a copy of every notice of assessment or reassessment issued to the spouse for each of the three most recent tax years and where the spouse is an employee, the most recent statement of earnings indicating the total earnings and paid in the year to date.
- [6] Child support is reviewable every year upon the change of the payor's Guidelines income. A court order is not required for the production of financial information. It is every parent's responsibility to disclose their income and keep their child support at the appropriate Guidelines level.
- [7] An order for retroactive child support may be necessary when the payor parent does not meet that obligation.

- [8] In *Colucci v. Colucci*, 2021 SCC 24, the Supreme Court dealt with a retroactive variation of child support to reduce child support and accumulated arrears. The same principles apply to a retroactive variation of support to increase support. Once the material change in circumstance is established, a presumption arises in favour of retroactively decreasing or alternatively increasing child support back to the date the payor or recipient gave effective notice of an intention to review the support order.
- [9] A question arises as to how far back the retroactive order should go. The Supreme Court set a presumptive limit of three years before formal notice of an application to vary. The presumptive three-year limit is to allow parties time to negotiate but recognizes that the payor (or recipient) must commence proceedings in a timely manner if negotiations fail in order to protect the certainty interests of the child of the recipient. Where no effective notice is given by the payor (or recipient) parent, child support should generally be varied back to the date of formal notice.
- [10] The court has discretion to depart from presumptive dates of retroactivity where the result would otherwise be unfair. Four factors for the court to consider in exercising discretion are set out in *D.B.S. v. S.R.G.*, 2006 SCC 37. The first factor is whether the payor has an understandable reason for delay in giving effective notice or seeking relief of the courts. The second factor is the payor's conduct. The payor's efforts to disclose income information will often be a prominent consideration. The circumstances of the child are the third factor including whether the child has suffered hardship. The final factor is hardship to the payor if the period of retroactivity is either not lengthened beyond the presumptive date in the reduction case, or lengthened beyond the presumption date in an increase case.
- [11] In determining whether to make a retroactive award the court should consider whether the recipient parent's delay in seeking retroactive support was reasonable in the circumstances (*D.B.S.* at para. 133)
- [12] In *Michel v. Graydon*, 2020 SCC 24 the recipient's spouse applied for retroactive increase in child support after the child ceased to be a child of the marriage. The Supreme Court held that the legislature authorized retroactive variation of child support irrespective of whether the beneficiary was a child at the time of the application. The status of the child is not an issue here. Ella was a child at the time the application was filed and remains a child currently and as she is in University. In *Michel v. Graydon*, Mr. Graydon understated his income and underpaid child support for a number of years.
- [13] The Supreme Court noted that when the payor parent fails to pay the appropriate amount of child support, the recipient parent is left to shoulder the burden. If the recipient parent does not have the means to provide the child reasonable support the child suffers. *Michel v. Graydon*, para. 31.
- [14] Retroactive child support orders will commonly be appropriate where payor parents fail to disclose increases of their income.

- [15] As was said in D.B.S., the payor parent who knowingly avoids or diminishes his/her support obligation to his/her children should not be allowed to profit from such conduct (para. 107).

Reason for delay

- [16] Ms. Bee filed affidavit evidence explaining why she took so long to apply for a variation of child support. She deposes that she asked for an increase in support for years but Mr. Key either failed to disclose income information or provided inadequate illegible disclosure and threatened to bring the issue of custody back to court if she applied for a variation of support.
- [17] On June 8, 2011 Ms. Bee contacted Mr. Key to urge him to make a loan payments on a joint loan that they still had. In an email on that date she said that if Mr. Key chose not to make the loan payment then she would have to look into having him help her with daycare costs and that she would look into applying for his pension. She said, "as well you have not provided me with your T4 which I am entitled to each year and have asked for several times."
- [18] Ms. Bee takes the position that this was effective notice to Mr. Key that he needed to provide her with his updated financial information.
- [19] Ms. Bee seeks to impute income of \$90,000 per year to Mr. Key given that he has not provided sufficient financial information. She has attached photographs and text messages to her affidavit. In 2022 Mr. Key sent a screenshot of his year to date wages as at August 10, 2022 and the amount of \$37,349.70. He also sent a screenshot of his 2021 T4 which is illegible.
- [20] In one message which is undated he says "just a heads up. You come after more money and I will open up custody. We agreed years ago to leave this all alone ... It's your call on starting it."
- [21] Ms. Bee explains the reason why she did not make an application earlier or a variation of child support. She said she had made attempts to get his financial information over the years. She believed his income had changed since 2008 and he refused to disclose a proper income statement. She said:

When I have discussed this issue with him he has told me if I take him to court to increase support payments, then he will take me to court for custody. I felt uncomfortable and threatened by the statement. He keeps telling me to "get the ball rolling in court" he does not want to come to an agreement outside court so therefore I feel there is no other option but to ask the court for what my daughter is entitled to. He has made no effort to help with extracurricular activities, tutor expenses, medical expenses etc. When asked for help with extracurricular expenses his response is "if I'm not there to watch her do these activities then I shouldn't have to pay". He has told me numerous times and text messages and over the phone he would get back to me on working out in the agreement and that he needs to figure out his finances but never has. He also told me to take him to court. I also thought living in the different province would make it difficult

to take him back to court.

[22] On August 22, 2022, Ms. Bee sent a text to Mr. Key saying:

I need a copy of your T4 and notice of assessment. You haven't made any effort to provide me with this info and you have never increase your support payments. You are to provide health/dental benefits for Ella and haven't done that either. I'm hoping we can come to an agreement if not I will have to file in court and let them decide on support and I guess back support right from the beginning.

[23] Mr. Key responded:

sounds like fun, as soon as your done I'll go for custody ... Have years of notes and text messages getting screwed around by you ...

[24] In a later undated text, which was around August or September 2022, Ms. Bee said:

you have never made an attempt to up your support even when you're wage increased. You've never offered any money to help with her tutor, extracurricular activities or even made an attempt to put her on your benefits. You've never offered to help pay for her braces, glasses etc. I would like to come to an agreement that you told me to get the ball rolling and take you to court. If we go that route they will need your notice of assessments, T4's, taxes, etc. I have spoken with a lawyer and can request 10 years back. I was hoping not to go that route and I'm only asking for us to come to an agreement. If you want to go to court that's fine too. I'm sorry to hear about you and Amanda. I won't say anything to Ella but obviously at some point you will have to tell her if or when it happens.

[25] This conversation continued. Mr. Key said he was not sure how much money he was going to have. After a month Mr. Key had still not provided financial information.

[26] In his responding affidavit filed June 28, 2024, Mr. Key's responds that he seeks an order that support remain as is. He states, "I can barely survive from one pay to the next". Mr. Key brings an undue hardship claim because he is paying child support for a son and a daughter from his second marriage in the amount of \$600 per month. He discloses that his income will be approximately \$60,000 per year. He is divorced and has made a consumer proposal.

[27] He opposes any retroactive support. In an attached statement to his affidavit he says:

Alison chose not to ask for more child support as she knew I would come and open up access.

I realized in the courts one has nothing to do with the other. But in this situation they are very much, and have always been a hot topic between us.

For 12 years Ella was kept from my quite often. Resulting in the last couple only getting to see her on holidays. After 2 years of seeing Ella only a few times a year, we made the decision to move out west. And as a result the last 6 Months in Ontario and a couple years out here we got to see her more.

We lost many many weeks of time. Alison knew she was wrong in the eyes of the court in regards to access.

I had given custody on divorce and she kept Ella from me/us (family) as much as she could.

Alison chose not to change until now and has told me she is doing so under pressure from her husband.

I don't understand how I'm going to pay more money, I struggle from pay to pay as it is. Also I have 2 kids here that I am very involved with.

...

I request that support remain the same. I can't get back the time Ella was kept from me. Why should Alison be able to chase money down from me?

We were always in contact.

She could have done this 15 years ago and had annual up keep. But, she knew she would be reprimanded in access court.

I would rather support ella directly while she is at college.

[28] During his testimony Mr. Key was asked if he threatened to take Ms. Bee to court for custody. He said he had always had trouble exercising access to Ella. He knows that access and child support are considered separate issues, but he did not think it was fair that he was being asked to increase child support for a child who was being unfairly kept from him. I asked Mr. Key why he did not go to court to get additional access to Ella and he said he did not understand the process and he did not have the money to go to court.

[29] Ella has come to British Columbia to visit him two or three times. He may have seen Ella once when he went to Ontario.

[30] Mr. Key was asked about the 2011 email that Ms. Bee sent him asking for financial information. He does not remember the email or the loan she talked about in the email.

[31] Mr. Key was asked if Ms. Bee asked him for his income information. He recalls that she did, and he admits that he made it difficult for her. He would make her wait and then he would send a partial screen shot of a pay stub or a T4.

[32] Mr. Key testified that whenever he had medical and dental insurance, he put Ella on his insurance. He has sent Ms. Bee the screenshot of his medical and dental benefit plan with the account numbers. He does not recall ever receiving a request for Ella's tutoring or Ms. Bee ever sending him invoices for Ella's benefits.

[33] He offered to increase child support to \$600 a month earlier this year and Ms. Bee laughed at him.

- [34] Mr. Key notes that Ms. Bee's income has dramatically dropped to part time work and that her husband's income is much lower than she told him it was. She told him a year ago that Mike made over \$100,000 per year.
- [35] Ms. Bee testified at the hearing that when she has asked for Mr. Key's income information he would hold off and make it difficult for her and she would get little bits and pieces of information.
- [36] Ms. Bee denies that Mr. Key offered to pay more support. He asked her to hold off and wait while he figured out his finances after his separation and then he did not get back to her.
- [37] When asked why she did not apply for a variation sooner, she said she should have come forward earlier, but he would bring up custody and he said he would go for full custody. It was a scare tactic and it did work.
- [38] She denies refusing access to Mr. Key. She says that Ella went every other weekend for the most part. Some were missed. She kept him up to date on her school and sent pictures. Ella went to British Columbia three times. She understands that they need a relationship. Ella has had extensive counselling to deal with not having a relationship with Mr. Key. He shared some information with her that a child should not hear so she blocked him from social media. She is 17 and does her own thing now.

Retroactive award

- [39] The first D.B.S. factor in considering whether to make a retroactive award is whether there was an understandable reason for delay in giving effective notice or seeking relief of the court.
- [40] Ms. Bee says that she did not pursue an increase in support because Mr. Key threatened to go after full custody. I find it hard to accept that this was a serious concern of hers given that she has had sole custody of Ella since 2008 and Mr. Key had fairly limited access and would have stood little chance of overturning the custody order. I think it is more likely that she was concerned that Mr. Key would get more access to Ella if he applied for it because his access was restrictive and not being followed. I think she made a conscious decision to not pursue an increase in child support so that the access time would not be reviewed.
- [41] Although there was a discussion in 2011 about having to ask for more money Ms. Bee was pursuing the payment of a loan and using the threat of increased child support if Mr. Key did not make the loan payment. She did not pursue it. The serious discussions about her reviewing child support happened in the summer of 2022. I find this is when Ms. Bee gave effective notice to Mr. Key that she was going to pursue an increase in child support.
- [42] I find a retroactive award going back further than 2022 would be unreasonable in the circumstances.

- [43] The second D.B.S. factor is the payor's conduct. Although Mr. Key made all of his child support payments, he did play games when it came to financial disclosure. He admits he made it hard for Ms. Bee. He would provide her with snippets of information in screenshots by text but did not comply with his obligation to provide full financial disclosure. This is blameworthy conduct.
- [44] The third D.B.S. factor is whether Ella suffered any hardship. It is apparent that she did not although her mother and stepfather were left to shoulder the burden of paying more than their share for a support.
- [45] As was said in D.B.S. the payor parent who knowingly avoids or diminishes his/her support obligation to his/her children should not be allowed to profit from such conduct (para. 107). The Guidelines place responsibility on both parents to disclose income and when a payor fails to do so the recipient parent will not be well-positioned to marshal the case for variation. *Michel v. Graydon* at para. 32 quoting D.B.S. at para. 56.
- [46] The fourth D.B.S. factor is hardship on the payor. A large retroactive award would be a significant hardship on Mr. Key. He lives on the edge of stable housing in an RV on someone else's property. He has no ability to pay a large judgment. Additional financial pressure could have a negative effect on his ability to support his other children.
- [47] When I balance the interests, I find a retroactive award to September 1, 2022 to be reasonable in all the circumstances.

Mr. Key's Circumstances

- [48] Mr. Key filed his notices of assessment from 2013 to 2023 showing an increase in income from \$44,078 in 2013 to \$92,064 in 2023 which included an RRSP withdrawal.
- [49] Mr. Key filed his paystubs for January to May 2024. His year-to-date income as at May 31, 2024 was \$30,640.78. I have extrapolated that year-to-date income to arrive at an annual income of \$73,536. Mr. Key also provided some pay stubs from Tomcat Equipment Ltd. where he occasionally gets extra work repairing commercial trailers. His year-to-date income from Tomcat as at May 31, 2024 was \$1,206 which extrapolates to annual income of \$2,894. It is not clear to me that his income is regular or continued past May 2024.
- [50] Mr. Key provided oral testimony that his 2025 year-to-date income as at September 26, 2025 was \$58,216.36 which extrapolates to annual income of \$77,621.
- [51] Mr. Key filed a formal financial statement on June 12, 2024. He owns no real estate. He lives alone in a 2022 Forest River Gray Wolf RV worth about \$56,000. He had a 2017 Toyota Tacoma off-road truck worth about \$31,000 which has now been repossessed. He now drives an old Honda Civic. He has a pension valued at \$100,460.77 and a family RESP for the children of his second marriage valued at \$2,457.36. He owed \$52,336 to the TD bank for his truck and \$75,603 for his RV.

- [52] Mr. Key is 48 years old and has a Grade 10 education. He suffered a brain trauma as a teenager which left him in a coma for 9 days. It has impacted his memory. Despite that, he has maintained fairly steady employment his whole adult life. He has a Class III driver's license authorizing him to drive commercial vehicles, dump trucks, and gravel trucks with tandem air brakes. He provided detailed evidence of his work history. After being laid off from a job which he had held for 14 years he obtained his Class III driver's license and started working for Canada Post delivering mail from city to city in Ontario. He then worked for a waste management company driving a recycling truck.
- [53] He and his second wife moved to British Columbia in 2019. He complained that he was rarely getting to see his daughter Ella when he was in Ontario. He and his second wife took a vacation to British Columbia in 2018 to visit his wife's family. His mother-in-law offered to help pay for the move and he had a job as soon as he arrived in British Columbia earning \$25 an hour fixing commercial trailers.
- [54] In 2020 he switched jobs and started working again for a recycling company in Victoria earning \$25-\$26 an hour picking up recycling 40 hours a week. His wife worked as a waitress in the evenings.
- [55] Mr. Key switched jobs again because he was not getting home until 7:30 at night from the recycling job and his wife had to leave for work at 5:00 and the children were too young to stay alone.
- [56] Mr. Key's two children from his second marriage were born in 2011 and 2015. He and his wife separated in September 2022. He worked at the Victoria recycling company for six or seven months and then had to quit because he could not afford gas to get from Cobble Hill to Victoria for work. He got a new job within a month or six weeks and worked for 13 or 14 months but was fired on September 2024. He was accused of smoking marijuana at work and for "time theft". He denied these allegations and challenged his dismissal and was successful with his appeal to Employment Standards. He received severance of \$3,200 which he used to pay debt. He next started working for central utility services at BC Hydro driving a vacuum truck digging hydro poles. He now earns \$35 an hour.
- [57] After separation from his second wife, Mr. Key had substantial debt and had to enter into a consumer proposal. He was unable to make some of the periodic payments and defaulted on his consumer proposal. He assigned himself into bankruptcy in January 2025. His truck was repossessed but he was allowed to keep his trailer because it is his home. He continues to pay loan payments for the RV and I assume that the truck payments have been stopped because of the bankruptcy.
- [58] Mr. Key and his second wife did not own a home or any significant property and had considerable debt.

- [59] Mr. Key has been living alone in his trailer for three years. It is parked on private property and he pays \$670 for the loan on his trailer and pad rent of \$850 per month plus hydro of \$100.
- [60] His expenses are very modest. He pays \$300 a month for propane, \$600 for food, \$300 a month for gas to get to and from work, \$63 for car insurance, \$24 a month for Spotify and \$22 a month for Netflix, and has some modest cost for maintenance for the trailer. He pays \$120 into his bankruptcy every month.
- [61] Mr. Key pays \$367 a month for child support for Ella and \$600 a month in child support for his two children from his second marriage. Full child support would be \$1,200 per month but his second wife is allowing him to pay half of that. They have a private agreement. He randomly pays for extras for his younger children if he has money to offer.
- [62] In response to Ms. Bee's claim of financial hardship, Mr. Key responded that if she is that hard up how does she afford to work part-time and go on trips to Italy, London and Paris. In comparison, he has spent the last three years trying to survive. He has not had a vacation since 2022. He is scraping through.
- [63] Ella told Mr. Key that she fast tracked through high school and she is in second year university already at 17. He was not asked to contribute to university costs and thinks that her grandmother and grandfather saved for her education costs.
- [64] Ella and Mr. Key had a long conversation last December and she told him she did not want to have anything to do with him. Mr. Key described it as a difficult conversation that saddened him. He hopes that Ella will want contact with him in the future and he continues to send messages to her. She does not answer now.

Ms. Bee's circumstances

- [65] Ms. Bee filed a financial statement which shows that she had income of \$27,942.28 in 2024. She works in a dental office part-time. Her husband Michael Bee works for an electronics company and earns \$7,295 per month which is \$87,540 per year.
- [66] Ms. Bee and her husband own a house valued at \$800,000. She owns a 2013 Ford Edge vehicle worth \$4,200. She has an RRSP of \$81,195. She has a negative balance in her chequing account and substantial debt. There is a balance owing on their mortgage of \$710,590. That is a joint debt. She owes consumer debt totaling approximately \$113,900. It is unclear whether this is joint debt or personal debt. She has a Royal Bank line of credit with an outstanding balance of \$10,000. There are three people living in her household namely her husband, herself and Ella.

- [67] Ms. Bee testified in response to Mr. Key. She agrees that Mr. Key did put Ella on his benefits but it was always off and on as he switched jobs often. She could not wait for him to have benefits so went forward and paid for Ella's medical and dental costs. She did not trust that if she sent receipts and Mr. Key got reimbursed, he would send her the money. Mr. Key was incensed by this accusation. He said he would of course send her the money because it would be her money, not his.
- [68] Ms. Bee cannot claim reimbursement now for many of the expenses because the deadline for doing so has passed. She attached them to her affidavit to show that she had additional expenses monthly to support their daughter. The \$367 per month in child support did not meet her needs.
- [69] Ms. Bee and her husband pay for Ella's books, food and tuition. Her parents did tuck a small amount aside for her education, but it does not pay for everything.

Analysis

- [70] There has been a material change in circumstance because Mr. Key's income has dramatically increased since 2008. The Guidelines child support was significantly higher than \$367 per month. The following table shows the shortfall in Guidelines child support if I do not depart from the Guidelines due to undue hardship:

Year

Mr. Key's Income

Child Support Guidelines Child Support Payable

Child Support Paid

Shortfall

Total Shortfall for Year

2025

\$77,621

estimated

Jan-Sept \$742

Oct-Dec \$734

\$367

\$367

\$375 x 9

\$367 x 3

\$ 4,476

2024

\$76,430

\$730

\$367

\$363 x 12

\$ 4,356

2023

\$92,064

\$879

\$367

\$512 x 12

\$ 6,144

2022

\$52,579

\$494

\$367

\$127 x 12

\$ 1,524

\$16,500

Undue Hardship

[71] Section 10 of the Guidelines provides that on either spouse's application a court may award an amount of child support that is different from the amount determined under any of ss. 3 to 5, 8 or 9 if the court finds that the spouse making the request, or a child in respect of whom the request is made, would otherwise suffer undue hardship.

[72] Section 10(2) sets out the circumstances that may cause a spouse to suffer undue hardship. I find that the following circumstances apply here:

- (d) the spouse has a legal duty to support a child, other than a child of the marriage, who is
 - (i) under the age of majority,

- [73] Mr. Key has three children to support, Ella and his two children from his second marriage.
- [74] I find If he were to pay full child support for Ella and \$600 per month for his other two children this would cause him undue hardship.
- [75] Section 10(3) requires that the court to review the standards of living of the households of the two spouses and deny a claim for undue hardship if the court is of the opinion that the household of the spouse who claims undue hardship would have a higher standard of living than the household of the other spouse.
- [76] Without conducting a standard of living test set out in Schedule II it is apparent to me that Mr. Key has a lower standard of living. He lives in a trailer, is bankrupt and has no money for discretionary expenses. Ms. Bee lives in a two-income household, owns real property, takes vacations and is able to work part-time.
- [77] Schedule II of the Child Support Guidelines set out a standard of living test which the court may use to assist in comparing the standards of living for the two households. It is not mandatory but is a useful tool.
- [78] I have used the formula in Schedule II and subtracted child support for Mr. Key's two children at \$600 per month plus the child support for Ella at the Guidelines child support of \$742 per month for the first 9 months and \$734 for the remaining 3 months. I subtracted the total of \$16,080 from Mr. Key's income of \$77,621 to arrive at an adjusted household income for Mr. Key of \$61,541. He is a single adult living in this household. The applicable low-income measure for his household is \$10,382.
- [79] The household income of Ms. Bee is \$115,482. The low-income measure for three persons living in that household (two adults one child) is \$17,649.
- [80] The household income ratio for Mr. Key is 5.92 and household income ratio for Ms. Bee is 6.54.
- [81] Mr. Key has a lower standard of living.
- [82] If Mr. Key continues to pay \$367 per month child support for Ella and \$600 per month for his other 2 children his household income ratio would be 6.35 which is still slightly lower than Ms. Bee's household income ratio.
- [83] This is only one factor to consider. I also must consider the fact that Ms. Bee has paid all of Ella's special and extraordinary expenses. She has never sought an order for contribution toward those expenses but seeks an increase in child support and some retroactive child support to reimburse herself to assist Ella with her ongoing university expenses. It is not clear to me what Ms. Bee intends to do with any retroactive amount.
- [84] It is clear to me that Mr. Key does not have the financial ability to pay a large retroactive award. I accept his evidence that he is just making ends meet by paying child support for three children in the current amounts. Once his bankruptcy is completed he will have an

additional \$120 per month which he is currently paying into the bankruptcy. When I add his expenses and subtract an estimate of taxes from his gross income he has very little surplus income each month. His reported expenses are very modest. Other than CPP he is not making contribution to retirement fund. He has no money for vacation. His entertainment expenses consist of a Netflix and Spotify account.

- [85] Although Ms. Bee's lifestyle sounds more extravagant from Mr. Key's perspective she has very high consumer debt which may be how she financed the various trips he mentioned.
- [86] There is no evidence of any hardship suffered by Ella because her mother and stepfather have supported her and paid her special extraordinary expenses and are contributing to her education costs as are her maternal grandparents.
- [87] In the end I must determine what I think is a fair amount of child support considering the financial stresses on both households and Ella's needs. I am mindful that Mr. Key offered to pay \$600 in support per month. This amount was rejected by Ms. Bee who denies that it ever was even offered.
- [88] I find \$600 to be a reasonable amount of child support payable for Ella going forward. It is lower than the Guidelines amount but it provides some additional money to pay for Ella's expenses.

Arrears Calculation

- [89] In 2022 Mr. Key's income was \$52,579. Guidelines child support was \$494 per month. He paid \$367 per month. There is a shortfall of \$127 per month for September to December. Arrears are \$508 for 2022.
- [90] In 2023 Mr. Key earned \$79,936. He also withdrew \$12,128 from his RRSP to assist him during a period of unemployment and the costs of separation from his second spouse. Child support for the total income of \$92,064 would have been \$879 per month. I find it reasonable to order child support of \$600 per month based on my assessment of Mr. Key's undue hardship and his circumstances after his separation and job loss requiring him to withdraw RRSP money. He paid \$367 per month. There is a shortfall of \$233 per month. Arrears are \$2,796 for 2023.
- [91] In 2024 Mr. Key's income has been extrapolated from his year- to-date pay stubs at \$76,430. Full child support would have been \$730 per month. I find that \$600 per month is reasonable. Mr. Key paid \$367 per month. This is a shortfall of \$233 per month. Arrears are \$2,796 for 2024.
- [92] In 2025 Mr. Key's income has been extrapolated from his year-to-date paystub at \$77,621. The Guidelines table amount changed effective October 1, 2025. For the first 9 months Guidelines child support would have been \$742 per month. From October 1 to December 1 Guidelines child support would be \$734 per month. I have found that \$600 per month is a reasonable amount for Mr. Key to pay. He paid \$367 per month. There is a shortfall of \$233

per month for 11 months (assuming a release date for this decision in November 2025) for a total arrears of \$2,563 for 2025 up to the date of release of this decision.

[93] The total arrears owing by Mr. Key to Ms. Bee for Ella's support is \$8,663.00.

Going forward

[94] I have accepted Mr. Key's undue hardship claim and ordered that his ongoing support continue at \$600 per month. He may want to consider offering a monthly installment to pay down the arrears of \$8,663.

[95] It is not likely that Mr. Key's income will vary significantly in the coming years unless he has reduction in income due to loss of employment or illness. It is also not likely that these parties will get any better at communicating with each other in order to review child support annually.

[96] I think it is in the best interests of Ella that the conflict subsides. I will accordingly order that the child support continue at \$600 per month until Ella ceases to be a child of the marriage as defined by the Divorce Act, R.S.C. 1985, c. 3.

[97] If Mr. Key suffers a prolonged reduction of income due to job loss or illness or other enduring causes he will have to bring an application to reduce child support using the same process that Ms. Bee used for this variation application.

"B. M. Young, J."

The Honourable Justice Young

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