

CANADA / JUDGMENT

Clarke v. Taylor

2014 BCSC 353

COURT

Supreme Court of British Columbia

DECIDED

4 March 2014

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2014 BCSC 353 Clarke v. Taylor IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Clarke v. Taylor, 2014 BCSC 353 Date: 20140304 Docket: D107001 Registry: Vancouver Between: Denise Margaret Clarke Claimant And Russell Garrett Taylor Respondent Before: The Honourable Mr. Justice Greyell Supplementary Reasons for Judgment Counsel for the Claimant:: Y. Leibovitz Counsel for the Respondent: D. G. Batist Place and Date of Trial/Hearing: Vancouver, B.C. December 16, 2013 Place and Date of Judgment: Vancouver, B.C. March 4, 2014

- [1] On January 14, 2014, I issued reasons in this matter (indexed as 2014 BCSC 49) in which I concluded Michael, the parties nineteen year old son, did not lose his status as a "child of the marriage" following his 18th birthday as he attempted to upgrade his educational requirements to attend university and that a result of his attendance for his first term at York University ("York") he remains a child of the marriage as defined by the Divorce Act, R.S.B.C. 1985, c. 3 (2nd Supp.). The parties disagreed on Michael's status prior to his attendance at York in September, 2013 but agree he remains entitled to child support commencing that date.
- [2] I ordered that child support for Michael be paid under s. 3(2)(b) of the Federal Child Support Guidelines ("Guidelines") and that the parties (particularly Ms. Clarke as she has borne the brunt of the expenses) and Michael provide the court with a more accurate summary of expenses than I was able to determine from the material filed on the application. I also requested submissions from the parties as to the manner of dealing with the expenses.
- [3] I have now received that information and submissions from counsel on various items of expense.
- [4] I order child support is to be based on the following list of expenses which have been incurred or are reasonably expected to be incurred during the completion of the 2013 - 2014 school term:
- (a) August 29, 2013 travel to Toronto Ms. Clarke's return trip to Vancouver \$1,036.42
 - (b) Michael's return travel to and from Toronto/Vancouver over the Christmas holidays \$1,119.64

- (c) Airfare from Toronto to Vancouver (May 4, 2014) \$405.81
 - (d) Room deposit \$300.00
 - (e) Meal plan deposit and supplement \$4000.00
 - (f) Miscellaneous travel expenses to set up Michael at York University (inclusive of cell phone for Michael) \$2,753.70
 - (g) Minimum monthly phone bill (8 months x \$40 per month) \$320.00
 - (h) Text books and supplies (fall term) \$1,250.00
 - (i) Residence \$4,784.00
 - (j) Mandatory healthcare and dental \$239.97
 - (k) Required payment for residence expense called Tatham Residence Life \$80.00
 - (l) Mandatory Residence Flex Pack \$100.00
 - (m) Miscellaneous for medication, laundry, etc. \$360.00
 - (n) Clothing \$400.00
 - (o) 8 months of bus passes at \$108 per month \$864.00
 - (p) Administration fee for the tuition waiver through SFU \$150.00
- [5] There are specific items of anticipated expense in issue between the parties. My view of these matters is as follows:
1. Text Books and Supplies:

[6] Mr. Taylor should pay his portion of this expense when the expense is known. The cost of these items for the fall term will be known and if not known for the Spring term would require little effort for Michael to provide receipts for the cost of these items, especially text books which are generally expensive and for reimbursement to be made by Mr. Taylor once the expense has been determined.
 2. Meal Plan Supplement

[7] Again, once the supplement to the meal plan has been paid or is known Mr. Taylor is to be provided with the receipt or verification of the amount and he will then pay or reimburse his portion.
 3. Meals Outside Meal Plan

[8] In my view it is reasonable to allow Michael a monthly spending amount for meals outside the meal plan, entertainment, notions, etc.in the amount of \$200 per. month while he is at university.

4. Supplies for Outdoor Field Trips

- [9] Michael is registered in a program in which he is expected to participate in outdoor field trips. He had provided a list of the items with an estimated cost of purchase of \$764.90. Mr. Taylor is not satisfied with estimated expenses and wants to see the receipts for the purchase of the items. This amount is an appropriate expense (although obviously a precise figure has been obtained by either Michael or Ms. Clarke) and rather than require Ms. Clarke pay this type of expense up front, I direct Mr. Taylor to pay his proportionate share of the expense. The parties can adjust the estimate to the actual amount of expense in the twice yearly adjustment discussed below.

5. Registered Education Savings Plan

- [10] The Registered Education Savings Plan which is jointly held in the parties names for Michael in which there is \$1,352.59 will be used first to pay the expenses listed above. Each party will cooperate to ensure such payment occurs from the plan.

6. General

- [11] As attending university often has both anticipated and unanticipated expenses, child support will be paid in a lump sum by Mr. Taylor twice yearly. The payment will be made on or before September 15 and January 15 in each year when most of the fall and Spring term expenses are known. Unanticipated expenses not covered above will be paid as and when they occur upon presentation of receipts to Mr. Taylor.
- [12] The amount noted above in paragraphs 4 and 9 totals \$18,928.44 not including the \$200 monthly allowance to Michael or the credit for the RESP. Mr. Taylor is to pay his proportionate share of these expenses pursuant to s. 3(2)(b) of the Guidelines.
- [13] Going forward, Michael will produce proof of his registration in an institution of higher learning to the respondent at the time his registration is confirmed as well as a copy of his marks at the end of each term when his marks are received.
- [14] Michael is expected in the future to contribute to the cost of his education by obtaining such employment as is available over the period between end of the Spring term and commencement of the Fall term, assuming he has no courses to attend that would interfere with him working during that time and the availability of employment. .
- [15] I have determined in my previous decision that Mr. Taylor's guideline income for 2013 is \$95,500 and Ms. Clarke's is \$86,243. Accordingly, the sharing of child support for Michael while at university for the 2013-14 terms will be based proportionately on the parties Guideline incomes..
- [16] As Ms. Clarke has made most of the expense payments listed above, the adjustment payments should be made to her directly, not to Michael as sought by Mr. Taylor.

- [17] Mr. Taylor has been paying \$1,303 per month as child support for both Michael and his sister Evelyn. The parties will calculate child support payable by Mr. Taylor based on his Guideline income for one child (Evelyn). Mr. Taylor will be entitled to a credit for the amount paid in excess of the one child amount against the amount owing for child support under s. 3(2)(b) for Michael from September 1st, 2013 to date. By my calculation the amount he is required to pay as child support for Evelyn is \$882 per month. If the parties have difficulty calculating this amount they have liberty to apply.
- [18] There is one further issue. As stated, Mr. Taylor has been making child support payments based s. 3(1)(a) of the Guidelines for two children in the amount of \$1303 per month. In a recent submission the claimant says Mr. Taylor had been underpaying child support since 2008/2009 given that his income has been rising, that she has been asking him to produce his financial returns disclosing his Line 150 income but he has refused or neglected to do so and that he is in arrears of some \$14,527. As there is no application before me on this issue I am unable to deal with this matter. "Greyell J."

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Prepared on 26 October 2026 · Esheria