

CANADA / JUDGMENT

Cyr v. Cyr

2011 BCSC 974

COURT

Supreme Court of British Columbia

DECIDED

19 July 2011

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2011 BCSC 974 Cyr v. Cyr IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Cyr v. Cyr, 2011 BCSC 974 Date: 20110719 Docket: E025034 Registry: New Westminster Between: Gail Emily Cyr Plaintiff And Brian Joseph Cyr Defendant Before: The Honourable Mr. Justice Crawford Reasons for Judgment Plaintiff Gail Emily Cyr: In Person Defendant Brian Joseph Cyr: In Person Place and Date of Hearing: New Westminster, B.C. June 16, 2011 Place and Date of Judgment: New Westminster, B.C. July 19, 2011

[1] The plaintiff's motion sought orders regarding:

1. 2011 summer holidays;
2. 2012 holidays;
3. form of communication between the parties;
4. an order for "respect";
5. contempt regarding the refusal to sign an order of 2 November 2011;
6. contempt proceedings regarding failure to pay \$200 a month outstanding daycare expenses;
7. contempt proceedings for failure to pay daycare expenses for 2010.

[2] At the end of the hearing the plaintiff sought leave to file an additional affidavit which she did on June 27, 2011. Mr. Cyr was to file his response the following week but I have not received any response. In fact the materials received were in large part irrelevant to the issues raised in the motion.

1. Summer holidays

[3] The plaintiff says she gave notice seeking summer holiday times in particular for a family reunion in August but father stayed silent until January 2011 and a misunderstanding has occurred.

[4] Father in fact denies receiving emails from mother of 22 October 2010 and 29 December 2010 when mother sought the twins for the August 12-15 family reunion.

- [5] After reviewing the calendars of the parties, I am assuming father currently has the twins as the parties agreed for 15-22 July 2011.
- [6] Mr. Cyr had chosen 5-12 August.
- [7] I will vary that to accommodate mother's family reunion for 12-15 August. Father's access for the twins shall be from 5-9 August at 6:00 p.m., that the plaintiff have the children 6:00 p.m. 9 August to 6:00 p.m. 18 August. If the defendant cannot take custody of the twins at that time then the twins are to be picked up by him at 8:00 a.m. on 22 August.
2. 2012 Summer Holidays
- [8] I order that for 2012 the defendant have the first choice of holidays in August, and the plaintiff have first choice of holidays in July.
- [9] Thereafter the parties' choices will alternate.
- [10] The requests are to be made by the 1st of January each year.
3. Email Communication
- [11] It is patent that the communications between the parties are not good and unhappily direct verbal communication is at a low ebb. For the purposes of the calendar planning and for urgent matters direct communication is necessary. However for regular communication email is appropriate. The defendant is to respond to the plaintiff's general emails regarding information/communication within five (5) days, and that with respect to emails pertaining to all medical matters and any matters of urgency within one (1) day.
4. Respect
- [12] There is no legal basis for this aspect of the motion. If the parties have not taken parenting after separation courses I would recommend it. As I have already mentioned it is imperative that the parties at all times present a respectful attitude towards the other parent. The children are sponges and they will soon pick up any negative attitudes towards the other parent and that is not to be encouraged.
5. 2 November 2011 Order
- [13] The 2 November 2011 order was signed by the parties when before me on 16 June.
6. Unpaid Daycare Expenses
- [14] The most recent affidavit indicated the 2009 outstanding amount was \$1,855.92 (which may have been reduced by monthly payments). The 2010 daycare expense net is \$1,353.10. I already made an order initially that that debt be retired at \$100 a month and then increased the amount to \$200 a month.
7. Other

- [15] An issue was made of the make-up for Lindsay at a dance recital or rehearsal. The first point is that each party is entitled to uninterrupted access with the child on their access periods.
- [16] Equally there needs to be some good sense and sometimes both parents will be better than one. For instance for the defendant to apply the make-up may not be a decision in the best interest of the child and mother in this case wanted to be able to assist. At the same time she must respect father's right to uninterrupted access but father needs to keep in mind the child's best interest and it may be that the child would look much better if the make-up and hair were styled by mother.
- [17] Equally mother must respect father's choices and should he decide he does not want mother's assistance it must be respected.
- [18] Birthdays of family members seems to be another issue. Again the calendar is useful in that planning process so that once access is placed on the calendar and then family birthdays are placed on the calendar, then birthdays can be planned. If the parents are sensible they will both be present at the twins' birthday for that again shows the children that the parents are able to share the important times. But if there can be no agreement then it will be sensible that some time on the birthday be allocated for the other parent to see the children. These are not orders but simply practical attempts to guide the parents in what is still a 15 or 20 year responsibility.
- [19] There will be no costs with respect to the motion. "The Honourable Mr. Justice Crawford"

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