

CANADA / JUDGMENT

Demers v. Shaver

2018 BCSC 2320

COURT

Supreme Court of British Columbia

DECIDED

28 December 2018

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2018 BCSC 2320 Demers v. Shaver IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Demers v. Shaver, 2018 BCSC 2320 Date: 20181228 Docket: E073682 Registry: Vancouver Between: Karen Demers Plaintiff And Joshua Shaver Defendant Before: The Honourable Mr. Justice Williams Reasons for Judgment The Plaintiff, appearing in person: K. Demers The Defendant, appearing in person: J. Shaver Place and Date of Trial/Hearing: Vancouver, B.C. October 31, 2018 Place and Date of Judgment: Vancouver, B.C. December 28, 2018

[1] This ruling is issued in the matter of an application brought by Karen Demers. In her notice of application, she seeks the following:

1. An order for the Respondent Father, Joshua Shaver, pay retroactive child support from the period of August 30, 2016 to now;
2. An order for Mr. Shaver to pay a portion of his severance pay towards child support;
3. An order for the monthly child support payments made by Mr. Shaver be increased;
4. An order for Mr. Shaver to pay \$120 per month toward the child's tutoring expenses starting November 1, 2018 and continuing for as long as the child requires tutoring;
5. An order for Mr. Shaver to pay \$20 per month toward the child's cell phone expenses until July 1, 2021;
6. An order for Mr. Shaver to pay \$100 toward the child's school expenses for the years 2016, 2017 and 2018;
7. An order that all of the above be included in the monthly child support payments as currently administered by the Family Maintenance Enforcement Program.
8. An order for Mr. Shaver to pay 100% of the child's upcoming and ongoing orthodontic treatments and that the first treatment commence by December 1, 2018;
9. An order that the Applicant Mother, Karen Demers, have sole custody of the child, [T.S.], DOB Jan. 3, 2004 and that the child continue to live with her fulltime;

10. An order that Mr. Shaver disclose any funds he has set aside for the child's education including bank account information; and
11. That an order for costs be awarded to the Applicant, Karen Demers.
- [2] The parties are the parents of a son, T.S. (DOB January 3, 2004). T.S. resides with Ms. Demers and has no meaningful contact with his father, Mr. Shaver.
- [3] That has been the situation since approximately late 2016. Up to that point, there had been contact. T.S. regularly spent time with Mr. Shaver and his wife and family. In August 2016, on the direction of this court, a "views of the child" report was prepared. As a consequence of the report's contents, relations between T.S. and Mr. Shaver essentially ended and that has been the situation since. It is now apparent that, for the foreseeable future at least, T.S. chooses not to have a relationship with his father. That is the state of affairs, regrettable as it may be.
- [4] The principal thrust of the application at bar is concerned with financial matters between the parties, specifically child support.
- [5] By way of background, a total of four orders have been made by the court over the life of this file. Only one of those orders, made on March 30, 2010, deals with support. In that regard, it provided as follows:
 1. For the period commencing April 1, 2010, the Defendant is required to pay the Plaintiff \$585 for the monthly table amount of child support based on his guideline income of \$62,543 per year.
 2. For the period commencing April 1, 2010, the Defendant is required to contribute 72% towards [T.S.]'s special expenses for daycare and dental work.
 3. Spousal support is reduced for the period commencing January 1, 2010 to the sum of \$775 per month, with the effect that the arrears are reduced to \$7,041.95.
 4. The Plaintiff is required to provide the Defendant on a monthly basis of a list of the employers she has had contacted seeking work, and to advise him forthwith when she finds work. She is to tell him what the employer agrees to pay her and what hours of the employer agree to provide her. The Defendant is entitled to apply to the court to vary or cancel the spousal support on the earlier of October 1, 2010, being about six months from now, or upon the Plaintiff finding full time work.
 5. The Plaintiff is to make her best efforts to seek subsidy for [T.S.]'s daycare expenses.
 6. The Defendant is to make his best efforts to obtain coverage for [T.S.]'s dental expenses through his employer's plan.
 7. For the period commencing April 1, 2010 and continuing until further order, the Defendant is required to pay \$100 per month towards the arrears of support.

- [6] It is my understanding that Mr. Shaver has made all of the payments required by the order and there are no arrears.
- [7] I am also unaware of the plaintiff having made any application, prior to this present application, for an order to review or vary the amount of child support.
- [8] With respect to the present proceeding, Mr. Shaver opposes the application for an order for retroactive child support as well as the claim that he should pay a portion of his severance pay as child support.
- [9] Mr. Shaver is agreeable to contribute to special and extraordinary expenses incurred by T.S. As well, he has indicated that he does in fact maintain a fund which has been set aside for T.S.'s education.
- [10] In the circumstances, I make the following orders:
1. Mr. Shaver shall pay \$120 per month toward tutoring expenses for T.S. commencing November 1, 2018, and continuing as those tutoring services are necessary.
 2. Mr. Shaver shall pay the sum of \$100 toward school expenses for the school year 2018-2019.
 3. With respect to orthodontic expenses, Mr. Shaver is to make his best efforts to arrange for whatever insurance coverage might be available. As regards the uninsured portion of the expenses, Mr. Shaver shall pay 70% of those; Ms. Demers will be responsible for paying 30% of those.
 4. Mr. Shaver shall pay the sum of \$20 per month for cell phone fees of T.S., commencing December 1, 2018, until further order of the Court.
 5. Mr. Shaver shall provide to Ms. Demers the relevant details with respect to any funds or accounts that he has allocated for the education of T.S., including bank account information.
- [11] I have not dealt with the application for retroactive child support nor have I dealt with the matter of the severance pay. In my view, the Court requires further and updated financial information in order to properly adjudicate those claims.
- [12] In aid of that, I order that both Mr. Shaver and Ms. Demers prepare and file updated financial disclosure in Form F8. Those are to be provided to the Court no later than February 15, 2019. At that point, I will hear further submissions with respect to the claim for retroactive child support and the claim arising from the severance pay settlement. Accordingly, adjudication of those two issues is adjourned. "Williams J."

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