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CANADA / JUDGMENT

## Lea v. Lea

2011 BCSC 872

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COURT

Supreme Court of British Columbia

DECIDED

30 June 2011

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2011 BCSC 872 Lea v. Lea

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Lea v. Lea,

2011 BCSC 872

Date: 20110630

Docket: 0729185

Registry: Prince George

Between:

David Trevor Lea

Claimant

And

Evelyn Meghan Lea

Respondent

Before: The Honourable Mr. Justice Meiklem

Reasons for Judgment

Counsel for the Claimant:

J.H. Cluff

Evelyn Meghan Lea appeared on her own behalf:

Place and Date of Hearing:

Prince George, B.C.

May 20, 2011

Place and Date of Judgment:

Prince George, B.C.

### June 30, 2011

- [1] The respondent, Ms. Lea, applied by notice of application dated April 8, 2011 for an order that her former spouse "put [her] back under his medical as per the Court Order filed December 13, 2010 in Paragraph 19(a)," and for other relief regarding a pension evaluation dispute. The latter issue was adjourned generally.
- [2] The order in question is the divorce order pronounced December 7, 2010 by Butler J., which, by consent of the parties, contains many provisions regarding corollary relief, including the following, as paragraph 19:
- a) The Claimant shall maintain the Respondent on his medical, extended medical and dental coverage for so long as spousal support is payable to the respondent and, in addition, shall maintain coverage for the Children of the Marriage;
  - b) If the Claimant is unable to maintain coverage for the Respondent as set out in the previous paragraph, he will pay the Respondent's costs of purchasing medical, extended medical and dental coverage for so long as he is obligated to pay spousal support.
- [3] Ms. Lea was covered for medical, extended health and dental benefits under Mr. Lea's employment group benefits plan underwritten by Sun Life. Unknown to both parties, this coverage was limited to Mr. Lea's dependents by the terms of the policy issued to his employer. Coverage for Ms. Lea was belatedly terminated by Sun Life on March 31, 2011. Ms. Lea initially believed Mr. Lea had cancelled her coverage over a conflict that arose when she asked him to allow her to submit claims directly to Sun Life and receive benefit cheques directly. She did not want to share details of her medical history with him, although he apparently wanted to be involved so he knew what portions of capped benefits were still available for him and the children.
- [4] These parties have gone through a very acrimonious divorce and there remains a great deal of mistrust which, combined with their opposing styles of communicating, continues to lead to misunderstandings between them.
- [5] On being advised of the termination of Sun Life coverage, Mr. Lea obtained replacement coverage for Ms. Lea with Manulife effective April 1, 2011. He says this cost an additional \$61.00 per month, but Ms. Lea received a notice of a monthly premium of \$52.40. Ms. Lea was not fully informed by Mr. Lea of the reason for the termination, and consequently clung to the notion that he had cancelled coverage vindictively while she was out of the country, even after he swore to the truth in his April 12, 2011 affidavit. In her responding affidavit,

sworn and filed on May 4, 2011, she says at para. 26:

That in summary I believe that the Claimant removed me from his medical plan to be vindictive. Every Sun Life representative I have spoken with through their 1-800-361-6212 number has informed me that with the agreement of the employer I could be re-instated. This is the easiest for all involved, but if this is no longer an option then I believe the Claimant should pay for coverage as close to what I had been receiving and cover all other costs that would be paid.

- [6] Of course, it makes no sense that Mr. Lea would cancel the coverage and incur a significant new monthly expense out of vindictiveness over the minor dispute about routing of benefit claims and payments.
- [7] Ms. Lea's initial affidavit of April 8, 2011 asserts, and I agree, that the initial replacement coverage Mr. Lea obtained does not provide coverage comparable to the previous Sun Life coverage in effect at the time of the divorce. Mr. Lea later acknowledged that and explored other options in an effort to match the previous coverage. The results of this were brought to Ms. Lea's attention on the day prior to the hearing of this application, when Mr. Lea offered the Enhanced Plus plan.
- [8] Mr. Lea takes the position that the replacement coverage most comparable to the previous Sun Life coverage in effect at the time of the divorce order is offered in a Manulife plan called "Enhanced Plus." Ms. Lea takes the position that Manulife's "Premiere" coverage is more comparable, although not quite as good as the previous coverage. She alternatively advocated a new Sun Life "Health Choice C" plan.
- [9] Ms. Lea's main argument against the adequacy of the Enhanced Plus plan is that dental recall visits are restricted to every nine months rather than six, and there is no coverage for crowns, bridges and orthodontics, whereas the previous Sun Life coverage provided for 50% of the costs of crowns, bridges and orthodontics. For prescriptions, the previous coverage was 80% without an annual maximum, whereas the Enhanced Plus plan has an annual maximum of \$800.00, and the Premiere plan has an annual maximum of \$1,600.00.
- [10] Both the Manulife Enhanced Plus and Manulife Premiere plans offer marginally greater annual benefits than the previous Sun Life coverage for paramedical services such as chiropractor, massage, and physiotherapy.
- [11] It is difficult for me to compare the new Sun Life Health Choice C plan because the categorization of dental work is different, and less plan information is provided. The annual maximum for prescriptions is obviously greater, in that it is \$2,000.00 per person. The recall time frame for dental cleaning, however, is nine months, which Ms. Lea did not find suitable in respect of the Enhanced Plus plan. The material indicates that Sun Life has Choice A, Choice B and Choice C with different levels of benefits, but no information is supplied as to the cost of any of these options.

- [12] The monthly premiums for the Manulife Enhanced Plus plan are \$105.70 and for the Manulife Premiere plan the premiums are \$135.10.
- [13] I made an interim order on the hearing date of this application that Ms. Lea be enrolled in the Manulife Enhanced Plus plan, pending my detailed review of the provisions of the various options, because it was necessary to enrol her in one of the plans before May 31, 2011 to ensure that she would not be excluded from coverage in respect of pre-existing conditions.
- [14] Having undertaken that detailed review, I agree with Ms. Lea's position that the Manulife Premiere plan is significantly closer to matching the pre-existing coverage in place at the time of the divorce than is the Manulife Enhanced Plus plan. It is not superior to the pre-existing coverage in any significant way that I have been able to determine.
- [15] I note that paragraph 19(b) of the divorce order does not define or restrict the contemplated replacement coverage, and is drafted in a manner that contemplates Ms. Lea purchasing such coverage and Mr. Lea paying for it. The parties have correctly assumed that the Court would only require Mr. Lea to pay for a reasonably comparable product. In my view, the Manulife Premiere plan is the most comparable product of the options presented, and is a reasonable substitute for the previous coverage.
- [16] My interim order is to be superseded by an order that Mr. Lea either pay directly or reimburse Ms. Lea for the cost of the Manulife Premiere plan for extended medical and dental coverage pursuant to paragraph 19(b) of the December 7, 2010 divorce order.
- [17] As Ms. Lea has prevailed on the issue that was argued, I will order that she is entitled to the cost of filing her application, which I understand was \$225.00.

"I.C. Meiklem J.

MEIKLEM J.

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Prepared on 29 October 2026 · Esheria