

CANADA / JUDGMENT

McEwan v. Fisher

2006 BCSC 2098

COURT

Supreme Court of British Columbia

DECIDED

28 June 2006

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2006 BCSC 2098 McEwan v. Fisher IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: McEwan v. Fisher, 2006 BCSC 2098 Date: 20060628 Docket: E015495 Registry: New Westminster Between: Lorraine Barbara McEwan also known as Lorraine Barbara Fisher Plaintiff And: Lawrence Edward Fisher, Lark Enterprises Ltd., Lark Recreational Properties Ltd., and Lark Holdings Ltd. Defendants Before: The Honourable Justice Leask Oral Reasons for Judgment In Chambers June 28, 2006 Counsel for the Plaintiff P. Daykin Counsel for the Defendants H. Cunningham Place of Hearing: New Westminster, B.C.

- [1] THE COURT: The reason I am going to order a review is I do not know what is going to happen in the next two years. (SUBMISSIONS)
- [2] THE COURT: All right, four grand for two years.
- [3] MR. DAYKIN: And what are then the terms that would apply to the review in two years?
- [4] THE COURT: What terms should there be?
- [5] MR. DAYKIN: Well, in my submission, the onus should then shift to her to prove a continuing entitlement.
- [6] THE COURT: Yes. But that is not a review, is it?
- [7] MR. DAYKIN: Well, otherwise
- [8] THE COURT: Let me assist you with some observations or reasons, if you prefer.
- [9] Mr. Daykin has urged me strenuously and forcefully and cogently that this support cannot continue. Not only can we not have an indefinite period of support, we cannot have any serious prospect of that, and I agree with those submissions.
- [10] The reason I am not setting a termination date today is very straightforward. I do not know what Ms. McEwan is going to be able to manage and I do not want to put a burden on her when I do not know.

- [11] But if it were up to me, in two years, if she had not completed this course and not returned to the workforce as a nurse, I would expect that she would have to persuade me, or any other judge sitting on this matter, and have a burden of persuasion about why support should not be coming to an end, if not on that exact date two years from now, very shortly thereafter.
- [12] Does that assist you, Mr. Daykin?
- [13] MR. DAYKIN: Yes, My Lord.
- [14] THE COURT: What about costs of today? No costs to anybody?
- [15] MR. DAYKIN: That's what I suggest.
- [16] MS. CUNNINGHAM: And, I mean, we would be seeking costs, because -
- [17] THE COURT: But I am going to leave it at no costs to anybody. Is there anything further I have to resolve?
- [18] MR. DAYKIN: No, My Lord.
- [19] MS. CUNNINGHAM: No, My Lord.
- [20] THE COURT: Well, thank you for a very interesting several hours.
- [21] MR. DAYKIN: And thank you for sitting late.
- [22] MS. CUNNINGHAM: Yes, thank you, My Lord.
- [23] MR. DAYKIN: And to the clerk for doing so as well.
- [24] THE COURT: That is all right. That is the order. Those are the reasons.
- [25] MR. DAYKIN: Thank you.
- [26] MS. CUNNINGHAM: And, sorry, My Lord. I just want to clarify. That was four grand for two years. Is that four grand a month?
- [27] THE COURT: It is.
- [28] MS. CUNNINGHAM: Thank you.
- [29] THE COURT: It is \$4,000 per month. "Leask, J."

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