

CANADA / JUDGMENT

Price v. Price

2020 BCSC 934

COURT

Supreme Court of British Columbia

DECIDED

22 June 2020

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2020 BCSC934 Price v. Price IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Price v. Price, 2020 BCSC 934 Date: 20200622 Docket: E161226 Registry: Vancouver Between: Alan Edward Price Claimant/Applicant And Leah Elaine Price also known as Leah Price Respondent/Respondent Before: The Honourable Madam Justice Jackson Reasons for Judgment The Claimant, appearing in person: A.E. Price Counsel for the Respondent: N. Allen Dates of Written Submissions and Reply of the Claimant/Applicant: May 19 and May 28, 2020 Date of Written Submissions of the Respondent/Respondent: May 28, 2020 Place and Date of Judgment: Vancouver, B.C. June 22, 2020 THE APPLICATION

- [1] The claimant/applicant relies on the inherent jurisdiction of the court to apply by way of written submission for an order varying the interim child and spousal support order made by Master Scarth on December 13, 2018 based on a change of circumstances, namely termination of his employment.
- [2] The claimant is 52 and the respondent is 55 years old. The parties married in 1996 and began living separate and apart some time around late fall of 2015 or early March of 2016. There are two children of the marriage, ages 17 and 13. Both have special needs. The older child resides primarily with the respondent and the parties share parenting time of their youngest based on a weekly rotating schedule.
- [3] On December 13, 2018, following an application brought by the respondent, Master Scarth made an interim order finding the applicant's Guideline income was \$358,891, comprised of \$58,891 from investment income and \$300,000 from employment income, and the Respondent's Guideline income was \$61,084 from investment income. Master Scarth ordered the applicant to pay \$3,865 per month in child support and \$6,211 per month in spousal support (the "Interim Order"). Master Scarth observed the respondent had advanced a claim for retroactive support in her counterclaim and that there were sufficient assets to satisfy any interim overpayment by the applicant upon final division of the family property.
- [4] Justice Groves dismissed the applicant's earlier application seeking to reduce his support obligations on October 2, 2019. Several weeks later the applicant advised the respondent he intended to take an indefinite leave of absence from work. In November 2019, the applicant was terminated without cause resulting in him receiving a severance package which

included medical benefits and salary. The applicant has not yet secured new employment, due to reasons he says are beyond his control. The applicant has in excess of \$1,300,000 in bank and investment accounts and a further \$371,000 in RRSPs.

- [5] The trial of this family law case is set to proceed August 17, 2020 for 15 days. PROCEDURAL OBJECTIONS BY THE RESPONDENT
- [6] As a preliminary matter, the respondent submits this application is not suitable to be heard by way of a written submission as contemplated by the Court's COVID-19 Notice No. 14 dated April 27, 2020. Given my finding on the substantive issue, it is not necessary for me to address the respondent's objections, valid though they may be.

LEGAL FRAMEWORK

- [7] The Interim Order does not specify the statutory jurisdiction under which it was made. The Applicant urges me to assume it was made under the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.), and relies on the inherent jurisdiction of a justice of this Court to vary an interim support order made under the Divorce Act, such a variation being beyond the jurisdiction of a master.
- [8] The Court has the inherent jurisdiction to vary interim child and spousal support orders made under the Divorce Act, but will generally only do so in exceptional circumstances that are urgent and cannot wait until trial to be addressed: *Vargas v. Berryman*, 2009 BCCA 588 at para. 3; *Chicoine v. Chicoine*, 2007 BCSC 735 at para. 29; *Janmohamed v. Janmohamed*, 2014 BCSC 107 at paras. 33 and 40. ANALYSIS AND CONCLUSION
- [9] The applicant submits there is "no juristic reason that [he] should have to pay support from [his] assets while the Respondent is allowed to keep hers." In essence he submits the terms of the Interim Order are unfair in the circumstances of his terminated employment.
- [10] I find the circumstances are not exceptional or urgent and can wait until trial. Any prejudice to the applicant can be addressed, and remediated if necessary, at trial.
- [11] As a result of my conclusion on this point, it is not necessary for me to address the respondent's alternative position that the applicant's Guideline income should include \$300,000 of imputed employment income, in addition to imputed investment income of approximately \$58,000, on the basis that he is underemployed and not working to his capacity. I will simply state I would have agreed with the respondent on that point as well.
- COSTS

- [12] Costs will be in the cause. "Jackson J."

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Prepared on 27 October 2026 · Esheria