

CANADA / JUDGMENT

R.L.C. v. R.G.C.

2016 BCSC 1589

COURT

Supreme Court of British Columbia

DECIDED

29 July 2016

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2016 BCSC 1589 R.L.C. v. R.G.C. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R.L.C. v. R.G.C., 2016 BCSC 1589 Date: 20160729 Docket: E034799 Registry: New Westminster Between: R.L.C. also known as R.L.S. Claimant And R.G.C. Respondent Corrected Judgment: The front page and text of the judgment were anonymized for publication purposes on January 12, 2022. Before: The Honourable Mr. Justice Macintosh Oral Reasons for Judgment In Chambers Counsel for the Claimant: Ryan P. Dueckman Appearing on his own behalf: R.G.C. Place and Date of Hearing: New Westminster, B.C. July 29, 2016 Place and Date of Judgment: New Westminster, B.C. July 29, 2016

- [1] Ms. S. applies to vary the amount of her spousal support from Mr. C.
- [2] Pearlman J. ordered spousal support of \$1,550 per month in 2012 based on an income of approximately \$100,000 for Mr. C.
- [3] Ms. S. asks to have spousal support increased to an amount in the range of \$3,500 to \$3,600 per month based on an income for Mr. C. of \$129,000 annually. The requested range would be mid toward high under the Guidelines. Pearlman J. found that to be the appropriate range in 2012.
- [4] The parties began living together in 1989, they married in 1995, and separated in 2008. Their two children are now grown and Mr. C. no longer pays child support.
- [5] Before the parties married, Ms. S. learned and shared with Mr. C. the tragic news that she carries the gene for Huntington's Disease, a severely debilitating disease which is eventually fatal.
- [6] Ms. S. now suffers from Huntington's Disease. She can no longer work or drive. She is still able to live on her own, and does so in an apartment she rents.
- [7] Mr. C. has remarried, he has two stepchildren who are his present wife's children. He is a firefighter employed by Maple Ridge. His wife is employed, I believe as an ambulance attendant.

- [8] The order of Pearlman J. pronounced October 10, 2012, authorized, in paragraph 8, an application to vary spousal support if there was a material change in circumstances.
- [9] There are two grounds submitted as the material changes in circumstances. First, since October 2015, Mr. C. no longer has to pay child support of \$921 monthly. Second, Mr. C.'s income has increased. Mr. C. stated his income in his Form 8 in 2012 to be \$94,000, with a caveat that his prospects were poor for better earnings. In fact, however, with overtime and other factors, he earned approximately \$134,200 in 2013, \$120,400 in 2014, and \$134,800 in 2015, or an average of \$129,000 for those three years, the figure Ms. S. seeks to employ for his income on this application.
- [10] Today, Mr. C.'s income is \$112,577 as a base salary, plus, I believe, approximately \$900 to date this year in overtime, which suggests that earnings for 2016 will be something under \$115,000, assuming there is no change in the amount of overtime, or pay increases for other reasons.
- [11] I find there are material changes in circumstances, including the ending of child support payments and the level of Mr. C.'s earnings. For purposes of the order I am making today, I am adopting \$121,000 as the correct figure to represent Mr. C.'s income. I find also that the factors before me are sufficiently close to those before Pearlman J., apart from the two material changes, such that it is appropriate to employ the Guidelines on this application.
- [12] Frankly, I believe my conclusions as to Mr. C.'s income for 2016 are conservative, but I am mindful that he has debts associated with his new family. Accordingly, Mr. C.'s spousal support obligation will increase to the mid-range number in the Guidelines for him earning \$121,000 annually, and Ms. S. continuing to receive her disability payments as addressed in the evidence.
- [13] Ms. S. gave notice of her application in December 2015. The increase will be retroactive to January 1, 2016. Mr. C. probably should have been paying higher child support or spousal support, or both, in 2013, 2014, and 2015, but he did not provide Ms. S. with his updated earnings information as he had been ordered to by this Court. In the result, he probably underpaid support for three years.
- [14] Ms. S. will have her costs of this application. Those are my reasons.
- [15] MR. DUECKMAN: My Lord, just to clarify, I didn't hear an actual number for the spousal support, should I just calculate the mid-range based on your numbers, then?
- [16] THE COURT: Exactly.
- [17] MR. DUECKMAN: Okay.
- [18] THE COURT: I meant to imply that. Thank you. So it is mid-range at \$121,000 yes. "MACINTOSH J."

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Prepared on 29 October 2026 · Esheria