
CANADA / JUDGMENT

Redlick v. Redlick

2013 BCSC 1155

COURT

Supreme Court of British Columbia

DECIDED

28 June 2013

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2013 BCSC 1155 Redlick v. Redlick

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Redlick v. Redlick,

2013 BCSC 1155

Date: 20130628

Docket: E63942

Registry: Nanaimo

Between:

Michael Wayne Redlick

Claimant

And

Brenda Lee Redlick

Respondent

Before: The Honourable Mr. Justice Greyell

Reasons for Judgment

Counsel for the Claimant:

K. Rongve

Counsel for Respondent:

D. Roelants

Place and Date of Trial/Hearing:

Nanaimo, B.C.

May 27, 2013

Place and Date of Judgment:

Nanaimo, B.C.

June 28, 2013

Introduction

- [1] The claimant, former husband, Michael Redlick, applies for an order that his former wife, the respondent Brenda Redlick, pay child support retroactive to November 1, 2012 as well as costs.
- [2] Ms. Redlick concedes that she has child support obligations. She submits the court should exercise its discretion under the Federal Child Support Guidelines, SOR/97-175 [Guidelines] to vary the amount of child support owed on the ground of undue hardship. Ms. Redlick also applies for the deduction of her employer's locked-in pension contributions from her Line 150 income. Finally, she challenges the payment of retroactive child support to November 1, 2012.

Facts

- [3] The parties were married February 4, 1989. Ms. Redlick is an assistant manager at the Coastal Community Credit Union. Mr. Redlick is a Deputy Sheriff. There are two children of their marriage: Elysian, who is 17 years old, and Maya, who is 14 years old.
- [4] The parties were separated on January 18, 2010. They were divorced by an order of this Court entered on July 13, 2012. That order also provided for a shared parenting regime, the transfer of the former matrimonial home to the respondent and the resolution of debt issues. The order cancelled any claims for maintenance. No order for spousal support was made.
- [5] From the date of separation until the beginning of November 2012, the parties shared care of the children equally. The children initially resided with Ms. Redlick. Mr. Redlick deposed in his fourth affidavit that he paid child support to Ms. Redlick during this time in accordance with the Guidelines.
- [6] The respondent purchased Mr. Redlick's share of the family home from him in the summer of 2012, as provided for under the July 13, 2012 order. Mr. Redlick paid her \$55,000.00 for his interest. At the time Ms. Redlick believed the children would continue to reside with her at the family home. She deposed in her second affidavit that her mortgage was approved on the basis of her income and the assumption that she would not be paying child support.

- [7] Circumstances changed in November 2012, when the children began residing with the applicant. On January 11, 2013, Mr. Redlick's counsel sent a letter to Ms. Redlick's counsel advising that he sought child support commencing as of November 2012. Further correspondence was sent in January and again in February advising Ms. Redlick of her child support obligations. Neither she nor her counsel responded.
- [8] Ms. Redlick has not made any child support payment to date although she continues to pay for the children's MSP.
- [9] She has, however, put the family home up for sale. There is currently an offer on the home. She deposed in her second affidavit that the closing date is July 12, 2013.
- [10] Mr. Redlick's 2012 Line 150 income was \$56,329. His income in 2011 was \$60,328 and his income in 2010 was \$59,389.
- [11] In her financial statement sworn on April 22, 2013, Ms. Redlick declared her Line 150 income to be \$67,851. This amount was also declared to be her Guidelines income. However, I note that Ms. Redlick's Line 150 income in 2012 was \$70,154.67, which included both her employment income and a draw down from her RRSP. She deposed she drew down from her personal RRSP to cover unexpected expenses.

Positions of the Parties

- [12] The applicant seeks child support retroactive to November 1, 2012. He submits that child support should be calculated on the basis of Ms. Redlick's Line 150 income.
- [13] The applicant says the respondent has failed to bring a proper application for undue hardship. Nor has she properly pleaded the specific ground upon which she claims she has suffered undue hardship.
- [14] It is the applicant's position that Ms. Redlick's only alleged source of undue hardship is through the division of property. He points out that nothing in the court order required the respondent assume more than one half of the parties' family debt. In fact, Mr. Redlick alleges that he received less than half of the equity in the matrimonial home.
- [15] In any event, the applicant submits that Ms. Redlick's wilful refusal to fulfil her child support obligations should not be rewarded with a remedy. A similar conclusion, although on somewhat different facts, was reached in *R.D.O. v. C.J.O.*, 2003 BCSC 804 (R.D.O.). Madam Justice Martinson agreed the criteria for undue hardship under s. 10 of the Guidelines had been met. However, she declined to exercise her discretion to vary the amount of child support owed on the basis that it would be contrary to public policy to grant relief to the former husband in view of his failure to make any payment in spite of the fact he earned a reasonable income from the federal government. Further, he had made no effort to see the child, depriving the child of emotional support as well.

- [16] The applicant maintains that Ms. Redlick has the ability to meet her child support obligations. He points to what he suggests are unnecessary discretionary expenditures, as declared in her Financial Statement, such as charitable donations, pet care, pilate classes, clothing, hair care, toiletry and cosmetics, meals outside the home and a large budget for food costs.
- [17] Mr. Redlick acknowledges that he only put Ms. Redlick on notice of her child support obligations as of January 2013. However, he argues her failure to make any contribution so far justifies awarding child support retroactive to November 2012, when the children began residing with him.
- [18] The respondent concedes that she owes child support to the applicant. However, she asks the court to reduce the amount she owes on the ground of undue hardship and by way of a deduction of her employer's contributions to her locked-in RRSP from her Line 150 income.
- [19] Ms. Redlick's assertion of undue hardship extends from her purchase of Mr. Redlick's share of the family home. She did so with the expectation that her children would continue to live with her primarily and, consequently, she would not have to pay child support. She says she qualified for her mortgage based on her income and the fact she was not expected to pay child support. She says she cannot afford to pay full child support until she can reduce her living expenses. She has tried to do so by selling her house.
- [20] The offer she has received, if it goes through, will put her at a loss. The net amount she will receive from the sale will be approximately \$35,000. She paid the claimant \$55,000 when she purchased his one-half interest in the property.
- [21] She submits that if her Guidelines income was found to be \$67,851, she would be required to pay \$1,028 per month in child support. Her net monthly income is approximately \$3,675. After paying her fixed monthly costs, she has \$1,560 remaining. If she were to pay child support as well, she would be left with a discretionary income of approximately \$532 per month. She notes that she continues to pay for the children's MSP premiums (\$798 per year).
- [22] Ms. Redlick suggests that her circumstances fall within paragraph 10(2)(a) of the Guidelines, meeting the first step of the undue hardship test.
- [23] Ms. Redlick further submits that her standard of living is lower than that enjoyed by Mr. Redlick's household, even if the deduction for her employer's contributions to her locked-in RRSP is permitted. Therefore, the court should exercise its discretion and reduce the amount of child support owed. The comparison prepared by Ms. Redlick's counsel is set out below. (Note that Mr. Redlick's common law spouse's income is also included in this calculation).

i. with employer contributions:

Ms. Redlick

Mr. Redlick

Ms. Downey

Income

\$67,851

\$56,329

\$39,988

CPP

\$2,356

\$2,356

EI

\$891

\$891

Income Tax

\$10,729

\$8,212

Net Income

\$53,874

\$44,870

\$43,159*

Child Support Adjustment

-\$12,336

\$12,336

Adjusted Income

\$41,538

\$57,206

\$43,159

Total Adjusted Family Income

\$41,538

\$100,365

Low Income Measurement Amount

\$10,382

\$20,764

Household Income Ratio

4.001

4.834

Decrease in monthly support to equalize the ratio

\$480

Support to be paid after equalization

\$548

*calculated based on net income as reported by Mr. Redlick grossed up for Ms. Downey's (but not her employer's) pension contributions at 7.93%

ii. without employer contributions:

Ms. Redlick

Mr. Redlick

Ms. Downey

Income

\$62,914

\$56,329

\$39,988

CPP

\$2,356

\$2,356

EI

\$891

\$891

Income Tax

\$10,729

\$8,212

Net Income

\$48,937

\$44,870

\$43,159*

Child Support Adjustment

-\$11,436

\$11,436

Adjusted Income

\$37,501

\$56,306

\$43,159

Total Adjusted Family Income

\$37,501

\$99,465

Low Income Measurement Amount

\$10,382

\$20,764

Household Income Ratio

3.612

4.790

Decrease in monthly support to equalize the ratio

\$679

Support to be paid after equalization

\$274

*calculated based on net income as reported by Mr. Redlick grossed up for Ms. Downey's (but not her employer's) pension contributions at 7.93%

- [24] Ms. Redlick acknowledges that her alleged undue hardship is transitory: once she sells her home she will be fully capable of meeting her child support obligations. Her counsel agrees that once the house is sold, Ms. Redlick should be required to pay child support in accordance with the applicable Guidelines table, minus the children's MSP premiums and her employer's contributions to her locked-in RRSP.
- [25] Ms. Redlick argues that an employer's contributions to an employee's locked-in RRSP are not properly included in the calculation of income under the Guidelines. Ms. Redlick says her employer's contributions to her retirement show up simultaneously as a taxable benefit and her employer then issues her a tax receipt for RRSP contributions. Consequently, her Line 150 income includes contributions toward her retirement. Those contributions are locked-in until Ms. Redlick retires. She argues her employer's contributions to her retirement are not proper Guidelines income, relying on an Alberta Court of Appeal decision *Ennis v. Ennis*, 2000 ABCA 33 at para. 18 (Ennis). Finally, Ms. Redlick argues that the entitlement to a retroactive award is not absolute and that it is inappropriate in these circumstances. She notes that Mr. Redlick's November 2012 Notice of Application did not include a claim for child support. Further, by granting retroactive child support, the court would deepen the inequality between the two households in their respective standards of living. She suggests that Mr. Redlick's financial statements reveal he is able to save \$6,000 a year. In contrast, Ms. Redlick is incurring further debt. She relies on *MacDonald v. MacDonald*, 2005 BCCA 23 for the proposition that any award of retroactive child support serves the purpose of redistributing capital.
- [26] In reply, the applicant argued that it would be inappropriate for the court to depart from Ms. Redlick's sworn Guidelines income.
- [27] His counsel also submits that the household standards of living calculations are incorrect in the second scenario (without employer contributions) because they do not provide for adjustments to income tax, EI and CPP calculations.
- [28] The applicant submitted that Ms. Redlick's undue hardship argument is essentially asking for a guarantee that her investment in property will only go up in value. He also noted that her mortgage payment was not inordinately high.
- [29] The applicant says the respondent should have been making some amount of maintenance payments since January 2013.
- [30] Mr. Redlick concedes that the court should order that he cover the children's MSP premiums as he receives medical coverage through his employment.
- [31] When I asked about whether adjustments to income tax, EI and CPP were necessary, Ms. Redlick's counsel suggested that no adjustments were necessary because her total income still fell within the same income tax bracket.

Disposition

[32] I note, at the outset, that as the questions raised in this application involve the interpretation of the Guidelines, I must consider its objectives:

Objectives

1. The objectives of these Guidelines are
 - (a) to establish a fair standard of support for children that ensures that they continue to benefit from the financial means of both spouses after separation;
 - (b) to reduce conflict and tension between spouses by making the calculation of child support orders more objective;
 - (c) to improve the efficiency of the legal process by giving courts and spouses guidance in setting the levels of child support orders and encouraging settlement; and
 - (d) to ensure consistent treatment of spouses and children who are in similar circumstances.

Undue Hardship

- [33] The presumptive rule under the Guidelines is for the payor to pay the amount of child support set out in the applicable table, determined according to the number of children to whom the order relates and the income of the payor spouse (s. 3).
- [34] Annual income is determined in accordance with ss. 16 through 20 (s. 15).
- [35] The court may only deviate from the presumptive rule pursuant to ss. 15.1(5) and 17(6.2)-(6.5) of the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) or under ss. 4, 5, 7 - 10 of the Guidelines.
- [36] Section 10 of the Guidelines provides for departure from the presumptive rule on the ground of undue hardship:

Undue hardship

10. (1) On either spouse's application, a court may award an amount of child support that is different from the amount determined under any of sections 3 to 5, 8 or 9 if the court finds that the spouse making the request, or a child in respect of whom the request is made, would otherwise suffer undue hardship.

Circumstances that may cause undue hardship

- (2) Circumstances that may cause a spouse or child to suffer undue hardship include the following:
 - (a) the spouse has responsibility for an unusually high level of debts reasonably incurred to support the spouses and their children prior to the separation or to earn a living;
 - (b) the spouse has unusually high expenses in relation to exercising access to a child;

- (c) the spouse has a legal duty under a judgment, order or written separation agreement to support any person;
- (d) the spouse has a legal duty to support a child, other than a child of the marriage, who is
 - (i) under the age of majority, or the age of majority or over but is unable, by reason of illness, disability or other cause, to obtain the necessities of life; and
- (e) the spouse has a legal duty to support any person who is unable to obtain the necessities of life due to an illness or disability.

Standards of living must be considered

- (3) Despite a determination of undue hardship under subsection (1), an application under that subsection must be denied by the court if it is of the opinion that the household of the spouse who claims undue hardship would, after determining the amount of child support under any of sections 3 to 5, 8 or 9, have a higher standard of living than the household of the other spouse.

Standards of living test

- (4) In comparing standards of living for the purpose of subsection (3), the court may use the comparison of household standards of living test set out in Schedule II.

Reasonable time

- (5) Where the court awards a different amount of child support under subsection (1), it may specify, in the child support order, a reasonable time for the satisfaction of any obligation arising from circumstances that cause undue hardship and the amount payable at the end of that time.

Reasons

- (6) Where the court makes a child support order in a different amount under this section, it must record its reasons for doing so.

[37] In R.D.O., Martinson J. found that s. 10 should be interpreted in light of the following:

the principle stated in the Divorce Act that parents have a joint financial obligation to maintain their children in accordance with their relative abilities to contribute to the performance of that obligation; and the objectives of the Guidelines, and in particular the objective of establishing a fair standard of support for children that ensures that they continue to benefit from the financial means of both parents after separation.

[Emphasis in original.]

- [38] The undue hardship test involves two steps: the spouse applying for relief under this provision must prove that payment of the table amount would cause undue hardship under subsection 10(1), having regard to the non-exhaustive list of circumstances where undue hardship may be found under subsection 10(2). If the applicant meets that test, she must then prove that if required to pay the amount of maintenance otherwise payable under the Guidelines, the standard of living of her household would be lower than that of the household of the payee spouse. If these two steps are met, the court may exercise its discretion to award a different amount of maintenance: *Van Gool v. Van Gool* (1998), 166 D.L.R. (4th) 528 (B.C.C.A.) at para. 45 (*Van Gool*).
- [39] The threshold for finding undue hardship is high. Any digression from the Guidelines' tables is discretionary since they set out a floor amount for maintenance payable: *Van Gool* at paras. 48 - 51. As found by the British Columbia Court of Appeal in *Van Gool* at para. 51:
- Hardship is not sufficient; the hardship must be "undue", that is, "exceptional", "excessive" or "disproportionate" in all of the circumstances. The onus is on the party applying under s. 10 to establish undue hardship; it will not be presumed simply because the applicant has the legal responsibility for another child or children and/or because the standard of living of the applicant's household is lower than that of the other spouse. The applicant must lead cogent evidence to establish why the table amount would cause undue hardship.
- [40] There is no issue of hardship with the children.
- [41] The question is therefore whether maintenance in the amount of \$1,028 per month would cause undue hardship to Ms. Redlick so as to give rise to a reduction in the maintenance that would otherwise be payable.
- [42] I must first consider the circumstances listed under subsection 10(2) of the Guidelines.
- [43] Ms. Redlick submits that her circumstances come within paragraph (a) of subsection 10(2): she has responsibility for "an unusually high level of debts reasonably incurred to support the spouses and their children prior to the separation or to earn a living."
- [44] It is not clear that the transfer of Mr. Redlick's interest in the matrimonial home was to be in lieu of child support. The court order of July 13, 2012 did, however, cancel all claims for child support under the court order. Ms. Redlick deposed and I accept that she had believed the children would primarily reside with her and that she would not owe financial obligations to the applicant in terms of child support. In other words, the indebtedness was incurred to support the children.
- [45] I note that paragraph (a) refers to a high level of debt reasonably incurred to support the spouses and their children prior to separation. While Ms. Redlick incurred the mortgage after her separation and divorce, the circumstances listed under subsection 10(2) are not closed. In this case, she incurred debt to provide stability and continuity to the children in their living circumstances. Her rationale I find was reasonable.

- [46] Whether this debt is an "unusually high level" is less clear. It is significant to note that Ms. Redlick's annual income offers her a reasonable standard of living. In 2012, she had a Line 150 income of \$70,154.67. Her total assets, as declared on her financial statement sworn on April 22, 2013, amount to \$346,100.00. Her total debts are in the amount of \$302,407.83.
- [47] After paying her monthly fixed costs, Ms. Redlick has \$1,560.00 in income at her disposal to pay for her personal expenses. She says that if she were obligated to also pay for child support, she would only have a discretionary income of approximately \$532.00. Hence, her evidence is that she can meet the payment obligations, but that her discretionary income would be limited. There was no acknowledgement on her part that she needed to economize her expenses, with the exception of her housing expenses, despite the fact they exceed her annual income of 2012. I further find that there was no evidence of a significant deprivation other than the requirement that she change her residence so that she could afford child support in addition to her other expenses.
- [48] I find Ms. Redlick has failed on the first step of the undue hardship test. I cannot accept her submission that the financial burden of a mortgage in these circumstances amounts to undue hardship. Certainly there is inconvenience but the obligation of paying child support does not give rise to an "exceptional" or "excessive" burden.

Whether Employer Contributions to a Locked-in RRSP are "Income" for the Purposes of the Guidelines

- [49] Pursuant to s. 16 of the Guidelines, a spouse's annual income is determined by the "Total income" heading in the T1 General form issued by Canada Revenue Agency, subject to adjustments under Schedule III to the Guidelines. Income is presumptively the payor's income as it appears on Line 150.
- [50] The Guidelines do not expressly provide for the deduction of employer contributions made toward an employee's retirement. It is obvious, nevertheless, that those contributions would not be at the disposal of the payor spouse until retirement if they were placed in a locked-in RRSP, even though those contributions are included in the calculation of annual income for tax purposes. In this way, those contributions are more akin to an asset.
- [51] The concept of income is broadly defined under the Guidelines, making it fair and appropriate to take into account many forms of income, benefits, compensation or attributed income, benefits or compensation that would not otherwise be treated as taxable income: *Dahlgren v. Hodgson*, 1999 ABCA 23 at para. 4.
- [52] The respondent relies upon Ennis as authority for the proposition that a locked-in contribution plan is deductible from the total income of the payor spouse for the calculation of child support.

- [53] In Ennis, the appellant challenged the trial judge's determination, in part, on the ground that the he erred in law in failing to include the respondent's employer's pension contributions as income for the purpose of calculating child support. In rejecting this argument, the Court of Appeal distinguished the cases relied upon by the appellant: *Jenson v. Jenson*, [1998] B.C.J. No. 1365 (S.C.) (Jenson) and *Adams v. Loov*, 1998 ABQB 511 (Adams). The court noted that Jenson involved contributions made by the respondent's employer to his RRSP, not contributions by an employer to a pension plan. The court noted that in the case of the former, the contributions remain the property of the registered plan owner, even if it is not within their control. In the case of the latter, the contributions to the pension plan do not become the property of the employee until vesting takes place. The court distinguished Adams on the basis that it involved mandatory deductions from the employee's salary, not contributions by the employer.
- [54] The court ultimately relied on its reading of the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.) to uphold the trial judge's decision at para. 18:

Turning to the Child Support Guidelines, Section 16 provides:

16. Subject to sections 17 to 20, a spouse's annual income is determined using the sources of income set out under the heading "Total income" in the T1 General form issued by Revenue Canada and is adjusted in accordance with Schedule III.

If the employer pension contributions were to be included, it would have to be as a taxable benefit included in the Respondent's income from employment. However, Section 6(1)(a)(i) of the Income Tax Act, R.S.C. 1985, (5th Supp.), c. 1 provides:

- 6.(1) There shall be included in computing the income of a taxpayer for a taxation year as income from an office or employment such of the following amounts as are applicable:
- (a) the value of board, lodging and other benefits of any kind whatever received or enjoyed by the taxpayer in the year in respect of, in the course of, or by virtue of an office or employment, except any benefit
 - (i) derived from the contributions of the taxpayer's employer to or under a registered pension plan, group sickness or accident insurance plan, private health services plan, supplementary unemployment benefit plan, deferred profit sharing plan or group term life insurance policy.

It is evident from this section that pension contributions made by an employer are not to be considered income for the purpose of the Income Tax Act. While the court retains a discretion to include this amount in income for the purpose of the Child Support Guidelines, there is no good reason shown to do so in this case. The chambers judge did not err by excluding the employer contributions to the Respondent's pension from the Respondent's Guideline income.

- [55] I also note Madam Justice Koenigsberg's reasoning in *S.L.P. v. C.W.P.1.*, 2002 BCSC 1384. In this case, the husband's company had contributed approximately \$35,000 per year to his pension. After changes were made to the income tax rules in 1998, a limit of contribution was set at \$13,500. Any contributions over the limit were paid into the husband's holding company where he was the sole shareholder as taxable income. Eventually, the income tax rules created a vehicle for pension overpayments called an "RCA". Koenigsberg J. did not find any evidence that the company's decision to make contributions into an RCA for the husband amounted to a maneuver to manipulate his receivable income. She distinguished cases relied upon by the wife as examples of arrangements where an employee had control over whether their income was received as pension or in other non-taxable ways. In those cases, the payee could receive the amount as income, if the payor so chose.
- [56] Koenigsberg J. found there was no evidence that the husband exercised this degree of control over the contribution plan and concluded it could not be fairly said the husband had pension income available to him to pay child support. She declined to include the employer's contributions in his Guidelines income (para. 34).
- [57] Ms. Redlick deposes that her employer's contributions to her retirement show up simultaneously as a taxable benefit. Her employer then issues her a tax receipt for the RRSP contributions. Consequently, the employer contribution is included in her Line 150 income. She deposes that her employer contributions are locked in. She cannot withdraw them until she retires. I note that her employer contributed \$4,937.38 toward her retirement in 2012.
- [58] I find the reasoning of Koenigsberg J. apposite in this case.
- [59] Although the RRSP in which the employer contributions are made is registered in the name of Ms. Redlick, I accept her evidence that this amount is locked-in. She has no option of drawing it down.
- [60] Ms. Redlick's income for the purpose of calculating child support will have her employer's contributions to her locked-in RRSP deducted.

Retroactive Child Support

- [61] A helpful summary of the law on retroactive child support can be found in *Cook v. Schlase*, 2013 BCSC 393 where Madam Justice Kloegman stated :
- [12] The Supreme Court of Canada decision in *D.B.S. v. S.R.G.*; *L.J.W. v. T.A.R.*; *Henry v. Henry*; *Hiemstra v. Hiemstra*, [2006] 2 S.C.R. 231, 2006 SCC 37, with which Ms. Cook seemed to have some familiarity, makes clear that the following principles will apply when retroactive child support is sought:
1. Parents have the moral and legal obligation to care for, protect and rear their children. This does not change upon the breakdown of marriage.

2. Parents have an obligation to support financially their children commensurate with their income.
3. A parent's increase in income will increase his or her share of child support and the total amount of support owed.
4. A court's jurisdiction over child support arises only upon application by a person authorized to pursue it on behalf of the children (My emphasis).
5. The Guidelines do not burden a payor parent with automatic disclosure every time his or her income increases. Section 25 of the Guidelines mandates disclosure only upon request by the recipient parent, and then only once a year (My emphasis).
6. Where one or both parents fail to vigilantly monitor child support, the children must not suffer.
7. Factors to consider where there has already been a court order for child support are:
 - a) a payor parent who diligently pays the child support amount ordered by a court must be presumed to have fulfilled his support obligations towards his children;
 - b) acting consistently with the court order provides the payor parent with the benefit of predictability, and a degree of certainty in managing his affairs;
 - c) the court order does not absolve the payor parent or the recipient parent of the responsibility of continually ensuring that the children are receiving an appropriate amount of support;
 - d) as the circumstances underlying the original award change, the value of that award in defining parents' obligations necessarily diminishes;
 - e) where the payor parent is found to be deficient in his support obligation to his children it will be open for a court to vary an existing order retroactively and amounts that should have been paid earlier will become immediately enforceable.

[Emphasis in original.]

[62] I award child support retroactive to February 1, 2013, the first day of the month following the January 11, 2013 correspondence from Mr. Redlick's counsel which first put her on notice of her child support obligations and when the application likely could have first been brought.

Conclusion

[63] Child support is owed retroactive to February 1, 2013.

[64] I decline to exercise my discretion pursuant to s. 10 of the Guidelines to reduce the amount owed by Ms. Redlick for child support.

- [65] I accept that even though her Line 150 income for 2012 was \$70,154.67, Ms. Redlick had to withdraw from her personal RRSP to cover "unexpected expenses" in 2012 and that her Guidelines income is properly set at \$67,851.
- [66] I will allow for the deduction of her employer's contributions to her locked-in RRSP from her income of \$67,851. This applies to the calculation of retroactive child support owed as well.
- [67] Mr. Redlick will cover the children's health care premiums.
- [68] The second Notice of Application (filed on March 28, 2013) also sought payment of a "set percentage of extraordinary expenses for the children of the marriage commencing November 1, 2012." In the Application Response of Ms. Redlick, she consents to paying one half of expenses that are extraordinary and should be incurred. This does not alter the terms of the July 13, 2012 order, which provides for equal division of extraordinary expenses. As no submissions were made on extraordinary expenses, I decline to make any orders with respect to extraordinary expenses. If the parties are unable to agree on the specific percentages of extraordinary expenses, they are at liberty to apply.
- [69] Ms. Redlick has also consented to two of the four grounds of relief sought in the first Notice of Application (filed November 14, 2012): a variance of the July 13, 2012 court order to provide that Mr. Redlick has primary residence of the children and to provide that Ms. Redlick has such access with the children as agreed upon by the parties in consultation with the wishes of the children. The applicant took the position that the other grounds of relief sought in that application do not need to be addressed.
- [70] As success in this application is split, the parties will assume their own costs.

"Greyell J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/SC/13/11/2013BCSC1155.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/redlick-v-redlick-2013>

Prepared on 28 October 2026 · Esheria