

CANADA / JUDGMENT

Taylor v. Rutherford

2000 BCSC 1844

COURT

Supreme Court of British Columbia

DECIDED

21 December 2000

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Source record

2000 BCSC 1844

Citation: Taylor v. Rutherford Date:

20001221

2000 BCSC 1844 Docket:

06867

Registry: Prince George

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CRYSTAL CHARMAINE TAYLOR
PLAINTIFF

AND:

DAVID ROBERT RUTHERFORD
DEFENDANT

REASONS FOR JUDGMENT

OF

MASTER BAKER

Counsel for the Plaintiff: No Appearance

The defendant, D. R. Rutherford Appearing In Person

Date and Place of Hearing: December 11, 2000

Prince George, BC

- [1] Mr. Rutherford appeared before me in chambers December 11, 2000, and requested indigent status. It was not clear that he had served Ms. Taylor, but he assured me that she knew of the application "and agreed". He seeks indigency status so that he can then apply to the court to vary a consent order respecting child maintenance dated March 7, 2000. I dismissed his application, but promised him reasons. These are those reasons.

- [2] As is frequently the case, Mr. Rutherford has prepared and brought his own application. His affidavit indicates a gross income of \$1,544.00 per month, all, I understand, from employment insurance. From this sum are \$248.00 in deductions, leaving a net income of \$1,296.00. He lives alone, has no other income, and lists expenses of \$1,414.00. Most of the expenses seem reasonable, but none are corroborated. He claims, for example, \$100.00 for pharmaceuticals without explanation or proof. He also claims \$50.00 for entertainment and \$100.00 for educational expenses, again without explanation or corroboration.
- [3] There is no indication of when Mr. Rutherford began to claim employment insurance, or for how long he is entitled to Insurance. There is no indication of what he earned in his usual employment; there is a Form 89 Property and Financial Statement for Ms. Taylor, but none for Mr. Rutherford. There is in the file a Demand for Financial Information addressed to Mr. Rutherford, but no indication that he has complied with the demand.
- [4] Mr. Justice Halfyard recently considered similar applications in Prince Rupert. In both *Hopkins v. Hill* (April 4, 2000, Prince Rupert Reg. No. DIV 3514) and *McCuaig v. McCuaig* (April 4, 2000, Prince Rupert Reg. No. DIV 3515) he declined to order indigency status. In *Hopkins* the applicant was in receipt of approximately \$1,700.00 from social assistance, B.C. Family Bonus, and G.S.T. tax credit, which sum supported the applicant, her spouse, and three children. In *McCuaig*, the applicant's income was also social assistance, in the sum of \$1,128.00 per month, with expenses of \$1,448.47. Ms. McCuaig had no other dependents.
- [5] In both of these cases Halfyard, J., pointed out the complete lack of information regarding employment history or efforts, and the absence of any corroboration of debts. Finally, the court reviewed the legal meaning of "indigency":

... a person possessed of some means but such scanty means that he or she is needy and poor. See: *Munroe v. Stewart* (1989) 31 B.C.L.R. (2d) 164 (S.C.B.C.) at p. 166.

He then concluded that the applicants did not come within that definition.

- [6] It is my view that Mr. Rutherford similarly does not come within the definition. I have no doubt that he is under financial stress but it is his obligation, even when acting on his own behalf, to place before the court the information it needs to assess his circumstances. It is insufficient to simply advise that at this time he is receiving employment insurance, and to present expenses without explanation or corroboration.

"Master Baker"

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Prepared on 29 October 2026 · Esheria