

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
NORMA CECILIA DIXE LEE (Appellant)	- and -	JOSEPH ELDRIDGE CLIFTON KING (Respondent)
CA167490	Halifax, N.S.	Flinn, J.A.

[Cite as: Lee v. King, 2001 NSCA 86]

APPEAL HEARD: May 18, 2001

JUDGMENT DELIVERED: May 18, 2001

WRITTEN RELEASE OF ORAL: May 22, 2001

SUBJECT: **Child Maintenance - Family Maintenance Act - Retroactive Order**

SUMMARY: On an application for child maintenance under the **Family Maintenance Act** the trial judge decided in effect that he had no jurisdiction to make an order for child maintenance for any period prior to the date on which blood tests confirmed that the respondent was the father of the child.

RESULT: Appeal allowed in part.

The trial judge erred in principle by concluding that no order could come into effect until the blood tests determined that the respondent was the father. The trial judge's order varied to make a provision for the payment of child maintenance effective as of the date of the application by the appellant.

Assuming without deciding that there is jurisdiction to make an order effective prior to the date of the filing of the application the record in this case does not support its exercise.

The court of appeal found that it was not necessary to address the question as to whether, under the **Family Maintenance Act**, the court has jurisdiction to order child maintenance to commence at a date earlier than the date of the application.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 3 pages.