

CASE NO.**VOL. NO.****PAGE**

DEOBRAH LOUISE WEDSWORTH

- and -

JOHN JAMES MACLEOD
WEDSWORTH

(Appellant)

(Respondent)

CA163652

Halifax, N.S.

Flinn, J.A.

[Cite as: Wedsworth v. Wedsworth, 2000 NSCA 108]**APPEAL HEARD:**

September 19, 2000

JUDGMENT DELIVERED:

October 3rd, 2000

SUBJECT:**Variation of Corollary Relief Judgment - child care expenses - mortgage arrears****SUMMARY:**

The appellant applied to vary the child support obligations of the respondent under a corollary relief judgment (both table amount and s. 7 expenses for child care). The trial judge refused to adjust, upwards, the respondent's income. As a result the table amount for child support remained the same. The trial judge relieved the respondent of his obligation, under the corollary relief judgment, to pay s. 7 expenses for child care on the basis that the respondent could not afford it. The trial judge ordered the respondent to pay outstanding mortgage arrears at the rate of \$100.00 per month for 36 months.

RESULT:

Appeal allowed in part.

1. The trial judge made no error in refusing an upward adjustment in the respondent's income or in rejecting the appellant's contention that income should be imputed to the respondent.
2. The trial judge erred in reducing the respondent's contribution to child care expenses to zero. Respondent had agreed to an amount of child care expenses as part of the corollary relief judgment. The respondent had been paying that amount immediately prior to the trial judge's order. The respondent did not request the reduction, and did not plead change in circumstances warranting a variance from the corollary relief judgment. The respondent's position was, only, that he could pay no more than he had been paying.

3. The Court of Appeal restored the provisions of the corollary relief judgment (as to s. 7 expenses) for a period of six months following which the matter is to be reviewed by a judge of the Supreme Court of Nova Scotia (Family Division).
4. The Court of Appeal ordered that the \$100.00 monthly payment on the mortgage arrears be deferred (once the child care expenses begin again) until such time as the respondent is no longer obligated to pay spousal support.

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 14 pages.