

NOVA SCOTIA COURT OF APPEAL
Citation: *Staples v. Callender*, 2010 NSCA 49

Date: 20100603
Docket: CA 319356
Registry: Halifax

Between:

Tracey Lee Ellen Staples

Appellant

v.

Mark Anthony Callender

Respondent

Judge: The Honourable Justice Nancy Bateman

Appeal Heard: May 20, 2010

Subject: **Fixing income for *Guidelines* child support**

Summary: Self-represented mother appeals determination of payor parent's income, share of s. 7 expenses and refusal to order retroactive child support.

Issue: Did the judge err?

Result: Very fact specific. The determination of all three issues on appeal involves the judge's exercise of discretion which attracts a deferential standard of review. Given the father's very recent employment and limited employment history coupled with his evidence of decreasing overtime availability, the judge did not err in declining to impute a higher income. The evidence of s.7 expenses provided at trial was limited and disorganized. The judge did what she could with the evidence she had. In declining to order retroactive support – even back to the application date, the judge was clearly concerned that the payor had no ability to pay

any additional support on his limited income. Appeal dismissed.
Limited costs to applicant mother.

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 16 pages.