NOVA SCOTIA COURT OF APPEAL
Citation: *Harris v. Curtis*, 2021 NSCA 10

Date: 20210118
Docket: CA 499095
Registry: Halifax

Between:

Jarrod Harris

Appellant

v.

Allison Curtis

Respondent

Judges:	Farrar, Hamilton, and Van den Eynden, JJ.A.
Appeal Heard:	January 18, 2021, in Halifax, Nova Scotia
Written Release	January 18, 2021
Held:	Appeal dismissed, per reasons for judgment of the Court
Counsel:	Tanya Jones, for the appellant Sharon Cochrane, for the respondent

Reasons for judgment (orally):

[1] The appellant (Mr. Harris) appeals an order granting the respondent (Ms. Curtis) permission to relocate their three children from Annapolis County to the Halifax Regional Municipality.

[2] Mr. Harris and Ms. Curtis are separated, and Ms. Curtis applied to the Family Court of Nova Scotia seeking permission to relocate under the *Parenting Support Act* (*PSA*). The Honourable Jean M. Dewolfe heard the application. She found that throughout their relationship and after separation both Mr. Harris and Ms. Curtis substantially shared their parenting responsibilities. Neither parent was a primary caregiver. The record contains ample evidence to support this finding.

[3] Given the judge's finding that the parties had a substantially shared parenting arrangement she correctly determined the rebuttable presumption in s. 18(H) (1)(b) of the *PSA* applied. Meaning that in order to authorize a relocation Ms. Curtis had to demonstrate, on a balance of probabilities, that the proposed relocation was in the best interests of the children. The judge found that Ms. Curtis discharged her burden. Again, there is ample evidence to support this finding.

[4] Being mindful that the outcome of the application was time-sensitive, the judge rendered an oral decision. She reserved her right to render a written decision with fuller reasons and did so two weeks later. Between the delivery of her oral decision and the release of her written reasons to the parties, the judge noticed that she did not clearly articulate the applicable relocation presumption under the *PSA* when delivering her oral decision. She arranged a telephone conference to debrief with the parties' counsel.

[5] During the telephone conference, Judge Dewolfe explained how she misspoke when delivering her oral decision, that she was clearly aware of the correct presumption, and applied it in rendering her decision. The judge explained the foregoing in her written decision and demonstrated her application of the correct presumption. Following release of her written decision, an Order was issued authorizing relocation.

[6] Mr. Harris contends the judge's identification of the applicable presumption during the delivery of her oral decision is fatal. He further complains about her treatment of the evidence, challenges her findings of fact, says she did not analyse the case law provided to her, nor did she provide adequate reasons. Under some of

his grounds, Mr. Harris does nothing more than simply state an error was made without demonstrating how.

[7] We are unpersuaded the judge committed any reversible error. Based on the record, including the judge's oral and written decision, it is clear she was cognizant of and correctly utilized the applicable relocation presumption under the *PSA*.

[8] With respect, we see no merit to any of the appellant's complaints.

[9] We are of the unanimous view the appeal should be dismissed. No costs were sought, none are ordered.

Farrar, J.A.

Hamilton, J.A.

Van den Eynden, J.A.