FAMILY COURT OF NOVA SCOTIA
Citation: *C.V. v. T.S.C.*, 2016 NSFC 33

Date: 20160317
Docket: FAMMCA-060337
Registry: Amherst

Between:

C.V.

Applicant

v.

T.S.C

Respondent

DECISION

Judge:	The Honourable Associate Chief Judge S. Raymond Morse
Heard:	March 17, 2016 in Amherst, Nova Scotia
Oral Decision:	March 17, 2016
Counsel:	Meghan Brown, for the Applicant
	Robert E. Moores, for the Respondent

By the Court:

INTRODUCTION

[1] This is the matter between C.V. (father) and T.S.C. (mother). The parties are the parents of three children: A.M-V., date of birth June *, 2007; B.M-V., date of birth March *, 2009; and C.M-V., date of birth January *, 2011.

[2] A Consent Order dated March 13, 2013, confirmed joint custody with primary care of the three children being granted to the Respondent, T.S.C. The Order confirmed that the applicant, C.V., would have access on alternate weekends from Friday at 6 until Sunday at 6, and such other access as deemed appropriate by the Respondent.

[3] In addition, the Order confirmed that C.V. would have parenting time with the children on alternate holidays, as well as parenting time for two weeks every summer. C.V. was also to pay child maintenance in the amount of $173.05 per month based upon an annual income of $14,092 commencing March 28, 2013, and continuing on the 28th day of each month thereafter.

PROCEEDINGS

[4] Pursuant to variation application dated December 10, 2015, C.V. requests variation of the existing Order with respect to custody, access, and child maintenance. The application was supported by a parenting statement and handwritten affidavit.

[5] A review of the documents confirms that the precipitating or triggering event behind the application was T.S.C.'s indication to C.V. that she was planning to move with the children to Ontario. C.V. is opposed to any relocation.

[6] T.S.C. filed a parenting statement in response supported by a handwritten affidavit. In her affidavit, she indicated that if she was allowed to move to Ontario, she was prepared to agree to parenting time for C.V. for six weeks each summer, and for five to seven days during March Break.

[7] And in recognition of the travel expenses that would be incurred by C.V., she indicated a willingness to waive child maintenance including arrears. She also

indicated a willingness to assist with transportation arrangements for purposes of C.V.'s parenting time.

[8] T.S.C. suggested that Christmas could be shared on the basis of alternate weeks such that during the first week of Christmas break through to and including Christmas Day, the children would be in the care of one parent. And then for the remainder of the Christmas break, the children would be in the care of the other parent. This arrangement would alternate each year. In addition, T.S.C. indicated that she was open to additional parenting time as agreed to by the parties.

[9] The matter came before the Court for docket review on February 17. The matter, at the conclusion of that hearing, was scheduled for a contested hearing on March 17, today's date, commencing at 9:30. The Court also assigned filing deadlines.

[10] On March 1, the Applicant filed a supplementary affidavit sworn February 29, 2016. According to C.V., the terms of the existing Order have never been strictly adhered to. He suggested that in reality, the parenting-time arrangement was closer to shared parenting rather than joint custody with T.S.C. having primary care.

[11] The Applicant's current residence is just around the corner from the Respondent's home. And according to C.V., this allows for the children to go back and forth between the homes with little or no disruption to their routine.

[12] The affidavit identifies C.V.'s concerns with respect to a possible relocation. He is concerned that the relocation will require a change in schools for the two older children. The child, B.M-V., has autism, and according to C.V. is accustomed to attending school in Amherst and has made good progress adjusting to his current academic program. The Applicant, C.V., has serious concerns as to how B.M-V. would adjust to any move.

[13] C.V. confirms that he and his current spouse have been actively involved with the children. They often pick up the two older children after school and make sure their homework is completed. They also participate in most of the children's extracurricular or school-related activities.

[14] C.V. and his wife have also been responsible for scheduling of medical appointments and transportation for getting children to and from some of their

appointments. C.V. indicates that the children are very familiar and comfortable with his wife, and that the children and his wife have a positive relationship.

[15] He also points out that the children have positive relationships with their paternal grandmother as well as his wife's mother, both of whom reside in the Amherst area. According to the Applicant, the children are used to having both the Applicant and the Respondent and their current partners and extended family in their lives on a daily basis.

[16] C.V. has also expressed concern about the Respondent's mental health. The Applicant notes that, given the fact that the Respondent lives close to him, if she encounters difficulty with her mental health, he is easily able to provide support by seeing to the care of the children.

[17] C.V. also notes a history of communication problems between the parties. While acknowledging that the communications are fine for certain periods, there are also other periods where it is very strained or difficult. He is concerned that if there was a relocation, communication between the parties would become more problematic.

[18] He also maintains that the children are very settled in the Amherst area, have regular involvement with extended family. He believes that a move would sever their connection with their existing school, friends, and extracurricular activities.

[19] C.V. notes that health issues have affected his employability. He is currently in the process of applying for disability benefits, but also indicates in his affidavit that he hopes to be able to return to work in the near future.

[20] A supplementary affidavit was filed by T.S.C. on March 16. In her affidavit, she disputes some of the information contained within C.V.'s affidavit. For example, she maintains that C.V.'s position with respect to the amount of parenting time he spends with the children is not accurate. T.S.C. indicates in her affidavit that the only people who interact with the children on a close to daily basis would be herself, her husband, C.V., and his wife.

[21] T.S.C. indicates in her affidavit that she has never been diagnosed with bi-polar disorder. She has been diagnosed with ADHD and depression. She is currently taking medication for ADHD. And she maintains that she has overcome her depression with the help of her doctor, family, and friends.

[22] In her affidavit, T.S.C. indicates she has no difficulty with the children having regular contact with C.V. by way of telephone, Skype, or Facetime, or other forms of communication. She confirms her willingness to work with C.V. to ensure that he has access to the children in the event that her request for relocation is approved by the Court.

[23] T.S.C. maintains that the decision to move to Ontario was made in the genuine belief that it would be in the best interests of the children. She confirms her intention to seek out employment in Ontario.

[24] She refers to her partner, E.S.C. as actually working in Alberta, but suggests this is only until his former employer in Ontario, confirms a position for him. The affidavit contains a list of various employment positions that T.S.C. has applied for unsuccessfully in the local area.

[25] The matter proceeded to a contested hearing on today's date. C.V. and his wife, K.S.V., testified in support of C.V.'s application. T.S.C. and her husband testified on behalf of T.S.C. C.V.'s affidavit sworn February 29 was entered as Exhibit 1. T.S.C.'s affidavit sworn March 16 was entered as Exhibit 2.

[26] Following submissions from counsel at the conclusion of the hearing, I indicated that the Court would recess until 3:30 at which time the Court would provide an oral decision.

ISSUE TO BE DETERMINED

[27] The issue for determination is whether or not it would be in the best interests of the three children to allow the children to relocate to Ontario with E.S.C. and T.S.C.

SUBMISSIONS OF COUNSEL

[28] Counsel for both parties submitted pre-hearing briefs. Both briefs cited the Supreme Court of Canada decision in *Gordon v. Goertz* as the pre-eminent case authority identifying the relevant legal principles to be applied in determining a mobility or relocation case. Both counsel also conceded that a change in circumstance has occurred in this instance given T.S.C.'s plan to relocate to Ontario.

[29] In closing argument, counsel for T.S.C. indicated that it was clear from the evidence that the children were happy, and that both parents enjoy a close and loving relationship with all three children. Mr. Moores acknowledged that the key issue involved a determination of what is in the best interests of the children, and the associated issue of whether each either parent can adequately provide for or meet the needs of the children given current circumstances.

[30] Mr. Moores maintained that having regards to the financial position of both parties, the only viable option was to authorize the relocation to Ontario where E.S.C. has an excellent opportunity to obtain employment.

[31] If the Court authorizes the relocation, Mr. Moores acknowledged that the Court must then consider how to best allow the children to have a meaningful relationship with their father, C.V., and referred to the position of T.S.C. as outlined in her initial handwritten affidavit and also confirmed or referred to during her testimony.

[32] Ms. Brown, on behalf of C.V., indicated that she would echo or adopt many of the submissions made by Mr. Moores. She acknowledged that both parties have a caring and loving relationship with their children. She conceded that both parties are currently operating in difficult, if not deficit, financial positions.

[33] She expressed concern about the relocation plan noting that if E.S.C. and T.S.C. were resident in Windsor, they would in fact be some distance from members of T.S.C.'s extended family who also live in Ontario but in the Mississauga area. She also noted and emphasized that there were aspects of the relocation plan that remained unclear or uncertain at this point in time.

SUMMARY OF EVIDENCE

[34] So in the introductory portion of this decision, I've already summarized the information as contained in the affidavits filed by the parties. The evidence that was presented during the course of the contested hearing is fresh in everyone's mind, and I do not propose to review it in detail for purposes of this oral decision.

[35] I will provide a summary. But I want to assure the parties and their counsel that I've given careful consideration to all of the evidence that was presented in determining this particular application.

[36] The evidence does, indeed, justify and support the conclusion that both parties have positive and loving relationships with the children. Their evidence also confirms that both parents have played meaningful roles in the lives of the children to date.

[37] The evidence supports and justifies the conclusion that the parties for the most part have been able to cooperate on parenting issues. C.V. has enjoyed regular parenting time with the children in accordance with the existing Order. However, his parenting time, by agreement of the parties, has not been restricted to the specific schedule of parenting time as set forth in the Order.

[38] It was obvious to the Court that both parties have a great deal of love and affection for the children. The Court notes that the relationship between the parties has at times been strained, but it appears to the Court that for the most part the parties have been able to maintain a fairly cooperative and supportive approach towards their respective parenting roles and the Court believes that this reflects an appreciation on the part of both parties that such an approach towards parenting is consistent with the best interests of all three children.

[39] During his testimony, C.V. confirmed that his employment and employability have been adversely affected by health issues. While he hopes to be able to return to employment in the near future, he is also in the process of making application for disability income. His circumstances have adversely impacted upon his ability to pay child maintenance in accordance with the existing Order. He is currently without any income. In 2015, he earned no income.

[40] During his testimony, C.V. also talked about the positive relationship between the children and members of his extended family who also reside in Nova Scotia.

[41] K.S.V. also testified. She described her relationship with all three children. It is clear to the Court that she has developed a caring relationship with all three of the children, and that the children also enjoy positive relationships with her son, as well as their half-sibling. K.S.V. has recently gone off EI and is currently seeking employment.

[42] During her testimony, T.S.C. readily conceded the positive relationship between the children and C.V. She made it clear that she does disagree with C.V.'s evidence as to the amount of time that he spends with the children. She disputed other aspects of his testimony.

[43] She confirmed that C.V. did not pay any child support in 2015. She received two payments from him in 2014, one a lump-sum payment for $1000, and then a second payment. And then she noted that C.V. had also paid $200 towards childcare. She received a $400 payment from C.V. in February of this year.

[44] E.S.C. and T.S.C. were married in July of last year. E.S.C. has not been successful in finding employment in Nova Scotia despite considerable effort to do so. He was able to secure a job in Alberta. But travelling back and forth between Alberta and Nova Scotia was expensive. He works as a utility arborist. He has been offered a job in Ontario.

[45] T.S.C. works at a local business. This is part-time employment involving 17 to 20 hours per week at a minimum wage. Her employment income does not cover her living expenses. As a result of her difficult financial circumstances, she has not been able to cover the costs associated with children's participation in extracurricular activities or sports.

[46] During her testimony, she referred to life in Nova Scotia as being a struggle to survive and that her pay cheque essentially goes to feeding the children. She indicated her belief that it would be easier for her to find full-time employment in Ontario and she confirmed her understanding that E.S.C. will also have employment in Ontario.

[47] In response to questions from the Court, T.S.C. confirmed that if they relocate to Ontario, or if that is authorized by the Court, she and the children would not relocate until late in the summer of this year. She also confirmed her position regarding C.V.'s parenting time or access as set forth in her original handwritten affidavit.

[48] E.S.C. also testified. He confirmed that he had attempted, without success, to obtain a job in Nova Scotia. He advised that he is waiting for confirmation of an employment position in Ontario. He has worked briefly for that company in the past. He is contemplating returning to Alberta for a short period of time in order to earn some income until the Ontario position becomes available. He indicated that he believes he has a positive relationship with the children.

LEGAL ANALYSIS

[49] The Family Court's jurisdiction to make a Variation Order is referred to and confirmed in Section 37(1) of the **Maintenance and Custody Act**.

[50] Pursuant to Section 18 of the **Maintenance and Custody Act**, any decision respecting custody and access is to be made based upon the Court's consideration of the children's best interests. Section 18 provides as follows:

> (5) In any proceeding under this Act concerning care and custody or access and visiting privileges in relation to a child, the court shall give paramount consideration to the best interests of the child.

[51] And it goes on in sub-paragraph 6 to indicate:

> (6) In determining the best interests of the child, the court shall consider all relevant circumstances, including . . . .

[52] And then there's a listing of various circumstances which the Court is certainly well-acquainted with, familiar with, and has taken note of. I am not going to review them.

[53] I am going to make reference to sub-paragraph 8 which indicates as follows:

> (8) In making an order concerning care and custody or access and visiting privileges in relation to a child, the court shall give effect to the principle that a child should have as much contact with each parent as is consistent with the best interests of the child, ...

[54] In *Clark v. Saberi*, 2012 NSSC 310, Justice MacDonald of the Nova Scotia Supreme Court Family Division considered an application for relocation and indicated as follows with respect to the relevant factors to be considered by the Court in determining such an application.

> [17] In the decision *Gordon v. Goertz*, [1996] 2 S.C.R. 27, the Supreme Court of Canada provided guidance about the approach to be used and the factors to be considered when deciding whether a parent can move to another residential location with a child. The inquiry has two steps. First the Court must decide whether there has been a material change in circumstances. In every case when a parent has indicated an intent to move a child's residence a significant geographic

distance away from a previous residence this threshold requirement has been fulfilled unless there is evidence to satisfy a court that the move was contemplated at the time the original order was made. In this case the intended move does constitute a material change in circumstances.

[18] The second step in a relocation proceeding, as contemplated by *Gordon v. Goertz*, is a fresh inquiry to determine what parenting arrangement in which residential location is in the best interest of the child having regard to all of the relevant circumstances relating to the child's needs and the ability of the respective parent to satisfy those needs. The Supreme Court directed (and I summarize):

[55] . . . and I am still referring to . . . quoting from Justice MacDonald's decision:

> 1. The inquiry is based on the findings of the judge who made the previous order and evidence of the new circumstances.
>
> 2. The inquiry does not begin with a legal presumption in favour of the custodial parent, although the custodial parent's decision to live and work where she or he chooses is entitled to great respect and consideration.
>
> 3. The past conduct of a parent is not to be taken into consideration unless the conduct is relevant to the parent's ability to act as a parent of a child.
>
> 4. The parent's reasons for the move are irrelevant absent a connection to parenting ability, as may be the case of a move the sole purpose of which will be to frustrate or interfere with access.
>
> 5. The focus is on the best interests of the child or children and not the interests or rights of the parents.

[19] More particularly the judge should consider, amongst other factors:

> (a) the existing custody arrangement and relationship between the child and the custodial parent;
>
> (b) the existing access arrangement and the relationship between the child and the access parent;

> (c) the desirability of maximizing contact between the child and both parents;
>
> (d) the views of the child;
>
> (e) disruption to the child of a change in custody;
>
> (f) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.

[20] As the Supreme Court has said in *Gordon v. Goertz* :

> 50 In the end, the importance of the child remaining with the parent to whose custody it has become accustomed in the new location must be weighed against the continuance of full contact with the child's access parent, its extended family and its community. The ultimate question in every case is this: what is in the best interests of the child in all the circumstances, old as well as new?

[56] I've also taken note of another decision. This is the decision of the Nova Scotia Court of Appeal in *Blennerhassett v. MacGregor* 2013 NSCA 77. In that particular case, the Court of Appeal, which is the highest Court in the Province of Nova Scotia, heard an appeal from the oral decision of Justice Gass which also involved a mobility issue.

[57] In that particular decision, the Court did review, of course, and refer to *Gordon v. Goertz*, and actually set forth in the decision a lengthy, fairly lengthy excerpt from Justice McLachlin's decision in *Gordon v. Goertz*. It's been paraphrased by Justice MacDonald in *Clark v. Saberi*, so I am not going to go through and read it all.

[58] I am going to quote some of the points that were referred to because, again, I think they just emphasize what the Court must consider and the approach that this Court must take in determining this application.

[59] So again this is from the Court of Appeal's reference to Justice McLachlin's decision as set forth in *Blennerhassett v. MacGregor*:

> 6. The focus is on the best interests of the child, not the interests and rights of the parents.
>
> 7. More particularly the judge should consider, *inter alia:*

[60] . . . which means, "amongst other things" . . .

> (a) the existing custody arrangement and relationship between the child and the custodial parent;
>
> (b) the existing access arrangement and the relationship between the child and the access parent;
>
> (c) the desirability of maximizing contact between the child and both parents;
>
> (d) the views of the child;
>
> (e) the custodial parent's reason for moving, only in the exceptional case where it is relevant to that parent's ability to meet the needs of the child; [McLachlin, J.'s underlining]
>
> (f) disruption to the child of a change in custody;
>
> (g) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.
>
> 50. In the end, the importance of the child remaining with the parent to whose custody it has become accustomed in the new location must be weighed against the continuance of full contact with the child's access parent, its extended family and its community. . . .

[61] And earlier in *Gordon v. Goertz*, Justice McLachlin had elaborated on the ultimate question, and I think that is worth of note so I am going to read it as well:

> 20. The best interests of the child test has been characterized as "indeterminate" and "more useful as legal aspiration than as legal analysis". . . . Nevertheless, it stands as an eloquent expression of Parliament's view that the ultimate and only issue when it comes to custody and access is the welfare of the child whose future is at stake. The multitude of factors that may impinge on the child's best interest make a measure of indeterminacy inevitable. A more precise test would risk sacrificing the child's best interests to expediency and certainty. Moreover, Parliament has offered assistance by providing two specific directions - one relating to the conduct of the parents, the other to the ideal of maximizing beneficial contact between the child and both parents.

[62] Now that's in the context of the **Divorce Act**. So that's what that reference is about.

[63] So our Court of Appeal went on and they said this:

> [34] *Gordon v. Goertz* directs that: (1) the test involves a weighing of factors, (2) there is no legal presumption, or prescribed tipping point, that favours the custodial parent, but (3) the custodial parent's view should receive great respect, or weight, in the balance, and (4) the ultimate question, on this balance, is - What is in the child's best interest? . . . .

DECISION

[64] So case authorities established that the determination of this type of application involves a two-stage or two-step process. The first stage involves the determination of whether or not there's been a material change in circumstance.

[65] Both parties in this instance through their counsel have acknowledged that there's been a material change in circumstance in this case. Accordingly, there is no contest or dispute with respect to first issue. And I am satisfied based upon the evidence before me that there has been a material change in circumstance since the original Order premised upon T.S.C.'s indicated intention and desire to relocate herself and the children to Ontario.

[66] The second step of the process involves determination of which parenting plan or proposal would be consistent with the best interests of the children. And in this particular case, this is the most difficult stage, obviously, from the Court's perspective.

[67] The existing Order confirms that T.S.C. has primary care of the children. The case authorities confirm that the custodial parent's views are entitled to great respect and consideration, albeit there is no legal presumption in favour of the custodial parent.

[68] Case authorities also indicate that the parent's reasons for the proposed move are irrelevant absent a connection to parenting ability. There does not appear to be any dispute in this particular case that the motivating factor is a financial one premised upon T.S.C.'s current financial circumstances which obviously impact upon her ability to provide adequately and appropriately for the needs of the children.

[69] Accordingly, I am satisfied that the reasons for relocation in this particular case are relevant because it is clear from the evidence that T.S.C.'s ability to parent the children has been significantly impacted in a negative way by her limited financial resources.

[70] In this case, it is also relevant and important to note that C.V.'s ability to pay child support and contribute to the needs of the children has also been negatively impacted by his financial circumstances.

[71] The Court acknowledges that C.V. and his wife have contributed to the needs of the children in other ways such as assisting with transportation for appointments and activities, and by assisting with the purchase of and provision of clothing items for the children.

[72] Most recently, C.V.'s health has interfered with his ability to maintain gainful employment. However, the fact that C.V. has not been able to comply with the existing Order for child maintenance due to his circumstances has also impacted negatively upon T.S.C.'s ability to meet the needs of the children.

[73] In determining the best interests of the three children who are the subject of this proceeding, I want to make it clear that I have done my best to consider the various factors as referred to in *Gordon v. Goertz*. I would acknowledge that both parties have conceded that this is not a case where the Court is able to ascertain the views of the children given their ages.

[74] In particular, I have carefully considered C.V.'s position that a relocation to Ontario would not be in the best interests of the children because it will have negative impact or disrupt the children's current educational programs, their close

relationship with C.S. and K.S.V., and the relationships with members of their extended family, friends, the children's friends, and third-party professionals such as their existing family physician.

[75] Again, I have considered and weighed the importance of the children remaining in the primary care of T.S.C. following a move to Ontario against the merits of permitting the existing relationship with C.V., extended family, and community to continue.

[76] In determining best interests, I have also considered the factors or circumstances as referred to in s. 18(6) of the **Maintenance and Custody Act** that are relevant to determination of the application.

[77] In some respects, this application recognizes the challenges that many families are presently met with given current economic conditions, especially in the Atlantic region. Job opportunities are limited. In many instances, the only available employment is part-time or limited employment based upon minimum wage.

[78] In many cases, the only realistic option for meaningful employment is to attempt to secure employment elsewhere in Canada. For most, the opportunity for full-time employment with a meaningful wage is not something that can be ignored even if it involves relocation and separation from family, friends, and community.

[79] After balancing and weighing all the relevant circumstances, I have concluded, albeit with some regret, that it would be in the best interests of the children to authorize T.S.C.'s relocation to Ontario.

TERMS OF THE VARIATION ORDER

[80] I am going to confirm the following Order. The children shall continue to be in the joint custody of the parties, and the children's primary care and primary residence shall continue to be with T.S.C. T.S.C. shall continue to have primary decision-making authority, but shall consult with C.V. with respect to any significant parenting issues or decisions.

[81] C.V. shall have the right to make direct inquiry to any third-party professional involved with the children including any health-care professional or educational professional, and any such third-party professional be and hereby is

authorized to provide appropriate information to C.V. with respect to any or all of the children without the need for prior consent or permission of T.S.C.

[82] T.S.C.'s move to Ontario with the children is authorized. Following the relocation to Ontario, she shall ensure that C.V. is provided at all times with current contact information including current address and phone numbers. However, the relocation shall not occur prior to August 1, 2016.

[83] C.V. shall have contact with the children on the following basis. C.V. shall be permitted to have the children for six continuous weeks during July and August each summer. The start and end date for this extended parenting time visit shall be agreed to by the parties on or before June 1 each year.

[84] T.S.C. is to facilitate the extended parenting time during each summer by assisting with transportation of the children to C.V. at the start of the summer visit and by assisting with transportation to return the children to Ontario at the conclusion of the summer visit.

[85] The arrangements for pick-up and drop-off are to be as agreed to by the parties on or before June 1 each year. The parties may agree upon a different arrangement for the summer visit by mutual agreement.

[86] For summer 2016, C.V. shall have parenting time with the children from the commencement of the summer school break until the last day of July. During the March (spring) school break each year, C.V. shall be permitted to have parenting time with the children for seven days. The start and end date for this extended parenting time shall be agreed to by the parties on or before February 15 each year.

[87] T.S.C. shall facilitate the March Break parenting time visit by assisting with transportation of the children to C.V. at the start of the visit, and also by assisting with transportation to return the children to Ontario at the conclusion of the March Break visit.

[88] The arrangements for pick-up and drop-off are to be agreed to by the parties on or before February 15 each year. The parties may agree upon a different arrangement for the March Break visit by mutual agreement.

[89] Christmas school vacation holiday will be shared equally by the parties each year. Each party will be responsible for parenting of the children for at least one week during the Christmas school vacation holiday period with the first week,

however, to include Christmas Eve and Christmas Day. The second week will commence December 26 unless the parties agree otherwise.

[90] For Christmas 2016, C.V. will have parenting time with the children during the first week following the commencement of the Christmas school break until December 26. From December 26 until the end of the Christmas school vacation holiday, T.S.C. will have parenting time with the children. For Christmas 2017, the schedule of parenting time will reverse and then it will continue to alternate each year thereafter.

[91] T.S.C. shall facilitate the Christmas parenting time for C.V. by assisting with the transportation of the children to C.V. at the start of his visit, and also by assisting with transportation to return the children to Ontario at the conclusion of the visit. The parties may agree upon different arrangements for the Christmas parenting time by mutual agreement.

[92] In addition to face-to-face parenting time with the children, C.V. shall be permitted to have regular and meaningful contact with the children by telephone, Skype or Facetime or any other appropriate means of communication as agreed to by the parties.

[93] Pending the move to Ontario, the current schedule of parenting time for C.V. as agreed to by the parties shall continue. So the current schedule is to continue.

[94] Given C.V.'s current financial circumstances and the fact that he is currently without income, I am satisfied that it would be appropriate to suspend C.V.’s obligation to pay child maintenance.

[95] Given that C.V. earned no income during 2015, his obligation to pay child maintenance is to be suspended effective January 1, 2015. So the effective date of suspension is January 1, 2015, last year, excepting the one payment that he made in February of this year in the amount of $400, that shall stand as a stand-alone maintenance payment, child maintenance payment.

[96] C.V. shall be required to immediately notify T.S.C. if and when he returns to employment, and to confirm his income from employment. Similarly, if he qualifies for disability pension, he will be required to immediately notify T.S.C. and confirm the amount of any disability pension payable.

[97] In light of the fact that the proposed move to Ontario will take place ... will not take place until August of this year, and given some of the uncertainty relating to issues, relating to employment for all parties and their respective partners, going to schedule this matter for further review and that review hearing will be scheduled for June of this year.

[98] If at that point in time the move to Ontario is proceeding as authorized by the Court, the Court will require updated information with respect to E.S.C and T.S.C.'s employment status as well as updated information with respect to C.V.'s financial circumstances. At the time of that review hearing, the court will determine whether or not C.V.'s child maintenance obligation should remain suspended as proposed by T.S.C. in light of the expenses that he will have to incur in maintaining contact with the children as a result of the move to Ontario.

CONCLUSION

[99] I want to end with the following comments. This was not an easy case to decide. And I have little doubt that C.V. is extremely disappointed with the Court's decision. However, I am going to ask C.V. to do his best not to let his disappointment with the Court's decision impact negatively upon his relationship with the children or T.S.C.

[100] The next several months are going to be difficult. I would ask once again that both parties do their best to make sure that their communication and interaction is at all times appropriate. Negative interaction between the parents is only going to make things more difficult. It's only going to complicate the situation and potentially have a negative impact upon the children.

[101] I want to assure both parents that I listened very carefully to the evidence. I read all the material. And I've tried to do my best to make a tough decision. I've tried to do my best to conclude what I think will be in the best interests of the children. But it's not an easy situation, nor was it an easy decision.

[102] I am going to ask the Clerk at this point in time to confirm a date and time for a review hearing in June. In light of the Court's disposition and decision, I am going to ask Mr. Moores to prepare the appropriate Order and to allow Ms. Brown some opportunity for review and input. And we will bring the matter back for review in June.

[103] **THE CLERK:** Wednesday, June 8 at 10:30?

[104] **MR. MOORES:** That's fine.

[105] **THE COURT:** That's fine? All right. So the matter will return for review at that time. I thank counsel for their cooperation and assistance, and I wish all the best to both parties. Thank you.

Morse, ACJFC