

SUPREME COURT OF NOVA SCOTIA
(Family Division)

Citation: Cole v. Dixon, 2016 NSSC 26

Date: 20160119
Docket: 1201-064590
Registry: Halifax

Between:

Kimberlie Heather Cole

Applicant

and

William John Dixon

Respondent

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Judge: The Honourable Associate Chief Justice Lawrence I. O'Neil

**Submissions
Concluded:** November 2015 in Halifax, Nova Scotia

- Issues:**
1. Whether identified employment and self employment expenses should be deducted from income before determining a payor's income for child support purposes.
 2. Whether certain one time payments should be added to the payor's income to determine income for child support purposes. These one time payments included RRSP income; bonus income and returned pension contributions.
 3. Whether set off child support and proportionate sharing of special expenses should be ordered.
 4. Whether costs are payable by either party.

Summary: Shared/equal parenting time was ordered. The parties now disagree on the application of s.9 of the *Child Support Guidelines* which governs their resulting child support obligations. They also disagree on what employment and business deductions should be made to determine the father's income for child support purposes and whether non recurring revenue received by Mr. Dixon is income for child support purposes.

The father is a self employed commission sales person and the lower income person. Non recurring income was excluded when determining the father's income for child support purposes. The 'CRA' acceptance of employment and business expenses was accepted for child support

purposes.

The Court ordered that no child support would be paid by one party to the other and each party would pay for child care when the children are in that parent's care. The parents will equally share health related expenses of the children.

Costs of \$5,000 to be paid by Ms. Cole.

Keywords: Deductions; income; shared parenting; employment expenses; non recurring income; self employment; child support; pattern of income; costs

Legislation: *Provincial Child Maintenance Guidelines*, N.S. Reg. 53/98
Federal Child Support Guidelines, SOR/97-175, 1997-04-08
Income Tax Act, R.S.C. 1985, c.1 (5th Supp.)

Cases Considered: *Contino v. Leonelli-Contino*, 2005 SCC 63 (S.C.C.)
Boudreau v. Marchand, 2012 NSCA 79
Marchand v. Boudreau, 2013 NSSC 93
Leet v. Beach, 2010 NSSC 433
Darlington v. Moore, 2013 NSSC 103
Higgins v. Bourgeois Higgins, 2015 NSSC 293

Texts: *Child Support Guidelines*, P.C., 1997-469
MacDonald & Wilton *Child Support Guidelines Law and Practice*, 2nd Edition

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