

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** MacKenzie v. Paul, 2010 NSSC 47

**Date:** 20100204

**Docket:** 1202-001544

**Registry:** Amherst

**Between:**

Roderick Daniel MacKenzie

Applicant

v.

Kathryn Lee Paul

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Douglas L. MacLellan

**Heard:** January 21<sup>st</sup>, 2010, in Amherst, Nova Scotia

**Subject:** Family law, application to vary child support order.

**Summary:** Child support of \$511.00 per month set in 2006 based on applicant's income of \$60,000.00 per year while working in the Yukon Territory.

Following making of that order applicant was injured and went on Workman's Compensation benefits. His income varied and was below \$60,000.00 for the years 2006 to 2008.

In 2008 he moved to Nova Scotia and started working at a job which would generate \$45,700.00 per year, but in 2009 he quit that job and started a new job which would generate \$31,000.00 per year. He asked the Court to retroactively vary his obligations between 2006 and 2008 and to set his current order based on his current income.

**Issue:**

1. Should Court retroactively vary his obligations during the years while his income was reduced?
2. Should Court impute income because the appellant was underemployed?

**Result:**

No change in order up to the end of 2008. For 2009 imputed income of \$45,700.00 to be used to determine arrears and the amount of the ongoing order.

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