

IN THE SUPREME COURT OF NOVA SCOTIA
[Cite as: Turner v. Lee, 2001 NSSC 142]

BETWEEN:

ANDREA TURNER

APPLICANT/RESPONDENT

- and -

STEPHEN JAMES LEE

RESPONDENT/APPLICANT

D E C I S I O N

HEARD: At Kentville, N.S.. on July 17, 19, 20 and October 4, 2001.

BEFORE: The Honourable Justice Allan P. Boudreau.

DECISION: October 5, 2001, Orally.

WRITTEN RELEASE
OF DECISION: October 16, 2001.

COUNSEL: Siobhan Doyle,
Counsel for the Respondent/Applicant.

Marion Millett
Counsel for the Applicant/Respondent

Boudreau, J., (Orally)

[1] This is the matter of Andrea Turner and Stephen Lee and the custody and parenting issues that have been litigated between the parties. I should say at the outset that these are amongst the most difficult decisions that a Court is called upon to make.

[2] The parties were married in 1986 and separated in 1992. There is one child of this relationship, a daughter, Morghain, born February 2, 1991. Since that time the parties have had shared parenting arrangements for many years. Each parent has had Morghain living with them for alternate week periods. This has continued, mostly uninterrupted until the present, but it has not been without its problems.

[3] The 1997 Report of Madeline Taylor indicates that problems with Ms. Turner's relationship with Morghain are not entirely new and they are documented to some extent in that report. Ms. Turner has had an ongoing difficulty in dealing with the stress of the shared parenting arrangement and in dealing with issues involving Morghain. She is very defensive and mistrustful of Mr. Lee. This affects not only her relationship with Mr. Lee but also her relationship with Morghain. One example I found was the refusal to let Morghain call her father because she was getting ready for bed. This is rather inflexible toward a ten year old child. Ms. Turner has admitted she has also been too rigid in her academic expectations of Morghain. This has resulted in Ms. Turner becoming angry and yelling at Morghain, at times belittling her. This has caused Morghain significant emotional stress resulting in the disclosure to teachers last year. While being overly rigid in her academic expectations of Morghain on the one hand, on the other hand Ms. Turner has been unduly lax in allowing Morghain to miss school.

[4] Ms. Turner has taken significant steps since May of this year, and particularly since the summer, to obtain professional help to better equip her to deal with Morghain and Mr. Lee. It is clear that Morghain loves both her parents and wants to spend a great deal of time with each of them. That is also unquestionably in Morghain's best interest. The question is how to best achieve that and to best ensure that Morghain has a stable home, developmental and educational environment.

[5] Morghain is almost eleven years of age. She needs stability and security of home while at the same time maximizing her relationship with each parent. Morghain cannot continue to be split in two forever. She is fast approaching the age when she will have much more to say about how much time she spends with each parent and under what circumstances. I find that the most stable environment, emotionally, educationally and developmentally, has been in Mr. Lee's home. However, Morghain enjoys and benefits from the time spent at her mother's home and this must continue to be encouraged and fostered.

[6] The evidence leads me to conclude that Morghain's best interest would be better served by spending more school time under the parenting of Mr. Lee, while at the same time maximizing the contact and relationship with Ms. Turner. This should also be done

in such a way to maximize the risk of upsetting Morghain by too much change in the amount of time spent with Ms. Turner. This is the general conclusion that flows from all of the facts of this case, and particularly the findings I have mentioned previously. I will therefore continue legal custody with Mr. Lee, with parenting times for Ms. Turner as follows:

- (a) Three out of every four weeks from Friday at 4:00 p.m. to Sunday at 6:30 p.m.; such weekends to be extended to include holidays or in-service days, that is, to be from 4:00 p.m. on Thursday or to 6:30 p.m. on Monday, or both, as the case may be. The rotating schedule is to be agreed upon between the parties, but it shall provide as many extended weekends for Ms. Turner as is possible.
- (b) Ms. Turner is to also have parenting time with Morghain each week on either a Tuesday or Wednesday evening as may be agreed between the parties, from 4:00 p.m. to 7:30 p.m.
- (c) Ms. Turner is also to have parenting time during the March Break each year from Friday at 4:00 p.m. to Sunday the following week at 6:30 p.m. Summer and other holidays should and shall be shared as in the past, and I note with approval and encouragement that there has been a good deal of flexibility in arranging these holiday parenting times. That should continue in order to benefit the relationship between Morghain and Ms. Turner as much as possible and it certainly could probably be done without any *quid pro quo* as appears to have happened this year.
- (d) Ms. Turner should have such other parenting times with Morghain as the parties may agree and, I would suggest, as may be recommended by Sheila Bower-Jacquard, or any other agreed upon counselor working with Morghain.

[7] The parties must be sensitive and considerate of Morghain's feelings regarding the amount of parenting time with each parent. Morghain shall be allowed to call the other parent at all reasonable times and this should be made clear to Morghain.

[8] Counseling for Morghain should continue and it could involve both parents, either together or separately as the counselor may recommend, or together with Morghain, but it seems to me that counseling of this fragmented family unit should continue, especially for Morghain.

[9] The spirit and intent of clause 3 of the Corollary Relief Judgment shall remain in full force and Ms. Turner shall be kept fully advised of all those matters contained in that clause so that she can participate as fully as possible, including but not limited to, attending at school, participating in school events and outings, as well as extra-curricular activities.

[10] Having made my ruling on the basis of the evidence presented before me at this time, I would like to point out that there are no winners in a case like this. Hopefully Morghain will settle in well with the modified parenting times. There are never any guarantees in these situations and both parents should keep vigilant and be sensitive to any problems which may arise. They should discuss with each other and with the advice

of professionals, i.e., counselors dealing with Morghain, as to how any perceived problems should be remedied. We should never think any of us has all the answers because we never do. It would be a mistake to become complacent and think that everything has been solved. There will no doubt need to be many more adjustments and decisions made while Morghain continues in her development and maturity. It does not end here.

[11] I will ask Ms. Millett to prepare the order and have it consented as to form by Ms. Doyle.

[12] There will be no costs awarded in this matter.

Boudreau, J.