

KENDALL ERIC EISNOR

(Applicant)

- and -

DEBORAH ANN EISNOR (BARNETT)

(Respondent)

Justice Margaret Stewart

Liverpool, N.S.

1201-54353

LIBRARY HEADING

(Cite as: Eisnor v. Eisnor, 2001 NSSC 140)**HEARD:** in Chambers at Liverpool, N.S. on July 25, 2001**WRITTEN****RELEASE:** September 28, 2001.**SUBJECT:** Federal Child Support Guidelines 19(1)(a); imputing income

SUMMARY: Whether the Court should impute income to the applicant for being “intentionally under employed” without excuse pursuant to provision 19(1)(a) of the Federal Child Support Guidelines or, more specifically, whether child support of \$592.00 should be varied to \$362.00 per month given Eisnor’s resignation on threat of being fired from his \$43,000 per year General Manager position to be employed by his new wife as manager of a newly opened convenience store/gas station/restaurant operation at \$25,000 per year, some two months after his twelve month severance package at his regular salary ended. Applicant at age 45 years is a high school graduate with 20 years of managerial skills of which the last three were as general manager over a staff of 15. He ranks himself at the top of the scale when it comes to his work reputation with his peers in the business; an active member of the business community; articulate and versatile in that he has computer budgeting, projecting, promoting, retailing and managerial skills; has no health issues and shares expenses with a new spouse.

HELD:

Court questioned: 1) Whether in accepting the \$25,000 a year salary the applicant's earning capacity is being fully utilized. No indication that he intended to continue seeking or pursuing employment in keeping with his managerial skills and expertise but presented as totally committed to his new wife's enterprise and was the only one with work experience and managerial experience. 2) Whether the job justified only a \$25,000 a year per salary given that the operation was more than just a convenience store. 3) Whether the applicant over the last year had even been moderately aggressive in his pursuit of employment opportunities. The Court was not convinced the applicant had adduced evidence to show that the resulting change in income was reasonable given his earning capacity, especially in light of the fact that he did not present his change as a temporary one while pursuing his efforts to earn an income commensurate with his expertise. He was found to be under employed within the meaning of provision 19 and acknowledging that he had lost an area of his expertise, given new methods of inventory, income was imputed at \$35,000 per year.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER SHEET.