

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Strecko v. Strecko, 2013 NSSC 49

Date: 20130207

Docket: 1201-063118

Registry: Halifax

Between:

Jane Wagner Strecko

Applicant

and

Brian Frank Strecko

Respondent

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

Hearing: November 19, 20 and 21, 2012

Issues:

1. Should spousal support be terminated? Varied?
2. Should income be attributable to the Applicant?
3. What is the meaning and effect of the parties’ Corollary Relief Order which mandated a review of spousal support and required the Applicant to seek employment? Was it transitional?
4. What child support is payable while the parties’ son is attending university? Between university years? Should the table amount apply to income greater than \$150,000?
5. What income level should be used, if any, to calculate child and spousal support payable by the husband? Should it include bonus and dividend income?

Summary: The parties’ Corollary Relief Order signed March 4, 2010, provided there would not be a review of spousal support earlier than July 1, 2012. The order also required the Applicant to seek employment and expressed an expectation that she might be self sufficient at the time of the review. The Respondent argued that the ‘CRO’ provided for transitional spousal support and no further spousal support should be ordered. Related issues were whether income should be imputed to the Applicant and whether child support for the parties’ son should continue given he was now attending university.

The Court held that spousal support should continue at the existing level for an additional two years. The Court concluded that the parties had agreed to not follow the Spousal Support Advisory Guidelines when determining the appropriate level of spousal support. The Court also

concluded that the “benchmark” for determining self sufficiency of Ms. Strecko was her earning the salary equivalent to that of a nurse.

The Court concluded that the Applicant had not yet achieved that level of income. The Court ordered a termination of the spousal support obligation in March 2015 subject only to the Applicant seeking to continue the spousal support.

The Court ordered child support at less than the table amount payable to the Applicant for December, February and April while the parties’ son is away at university. The table amount of child support based on Mr. Strecko’s line 150 income, is payable when the son is between university years provided he is residing with his mother full time. If not living with his mother but still attending university full time, the son shall receive \$1,000 per month directly from his father as a contribution to his university expenses (shelter costs), including over the summer.

The Court ordered contributions to meeting the son’s university expenses on the same basis as that followed with the older son. The funding of the younger son was directed to consist of the following components:

- (a) the son’s contribution;
- (b) the father’s contribution;
- (c) the mother’s contribution;
- (d) educational plan funding; and
- (e) bank financing or the like if necessary.

Keywords: Spousal Support Guidelines; imputing income; special university expenses

Legislation: *Divorce Act*, R.S.C., 1985, c.3 (2nd Supp.)
Matrimonial Property Act, R.S.N.S., 1989, c.275

Cases Considered: *Niles v. Munro*, 2010 NSSC 221
Provost v. Marsden, 2009 NSSC 365
Eyking v. Eyking, 2012 NSSC 409
Burchill v. Savoie, 2008 NSSC 307
Lu v. Sun, 2005 NSCA 112
Leet v. Beach, 2010 NSSC 433
Marshall v. Marshall, 2008 NSSC 11
D.B.S. v. S.R.G., 2006 SCC 37
MacIsaac v. MacIsaac [1996] N.S.J. 185
Conrad v. Rafuse, 2002 NSCA 60
Pollock v. Rioux, 2004 NBCA 98
Nova Scotia (Community Services) v. A.A., 2009 NSSC 206
Francis v. Baker, 1999 CanLII 659 (SCC)

Glaspy v. Glaspy, 2011 NBCA 101
Bracklow v. Bracklow [1999] S.C.J. 14
Moge v. Moge [1992] S.C.J. 107
Richards v. Richards, 2012 NSCA 7

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