

**IN THE SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION**

Citation: *W.B. v. C.C.*, 2006 NSSC 286

Date: 20060929

Docket: SBW 1302-00576/043837

Registry: Bridgewater

Between:

W. B.

Petitioner/Respondent

v.

C.C.

Respondent/Applicant

LIBRARY HEADING

Judge: The Honourable Justice Walter R.E. Goodfellow

Heard: September 25, 2006 in Liverpool, Nova Scotia

Subject: **Divorce - Variation of Interim Order**

Summary: Hearing February 9, 2006 - Interim Order Granted

Mother sought variation to change degree of parenting. Father has child 5 night of the week and mother 2 nights of the week and she wished it to be changed to equal time. Mother's concern about *status quo* cementing over time prior to projected trial date in 2007. Father's application to seek child support and s. 7 contribution. Numerous other issues raised and dealt with prior to applications namely: sharing of dog, furniture and personal effects distribution, sharing information as to educational, medical situation on child, etc. In addition, the

matrimonial home was sold and substantial funds held in trust the disposition of which was initially opposed by the father and court advise funds have now been disbursed.

Issues:

1. Can Interim Order be varied? - Answer "Yes"

Foley v. Foley (1994), 124 N.S.R. (2d) 198. In order to vary interim order circumstances must amount to a clear determination that such is necessary in the best interests and welfare of the child.

2. Should Interim Order in this situation be varied? - Answer "No"

Court understands the concern of the non-custodial parent that the *status quo* becomes strengthened with the passage of time prior to trial, however this is one of the almost inevitable results of separation. Interim Hearing Judge's determination that parents were unable to co-parent due to circumstances where emotions were high, finger pointing, lack of communication, etc., such have relented very little and co-parenting or equal sharing of time not now or likely to be beneficial to the child in the immediate future. The court did make recommendations for slight increase in access and suggestion with respect to Christmas block access in the hope of avoiding yet a further interim application. The court also recommended, while funds available, that father match mother's contributions to the child's RESP after full disclosure by her. Issue not before court on this hearing but had it been in all probability order would have been made *Rhynold v. Van der Linden*, Goodfellow J. 2006 NSSC 260; 1201-00496.

Counsel to be heard on Costs.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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