

SUPREME COURT OF NOVA SCOTIA (FAMILY DIVISION)

Citation: *Key v. Barry*, 2017 NSSC 359

ENDORSEMENT

Amanda Key v. Adrian Barry
2009; SFH-MCA 062568
October 4, 2017

Ms. Key seeks to vary the access schedule contained in the parties' 2016 Consent Variation Order.

Decision:

The variation application is dismissed: no material change in circumstances has been shown to have occurred since the Consent Variation Order was granted in July 2016.

Reasons:

1. There are three requirements that must be satisfied before I can consider an application to vary a parenting order: *Gordon v. Goertz*, 1996 CanLII 191 (S.C.C.) at para 13. The requirements are:

- (a) there must be a change in the children's condition, means, needs or circumstances or the ability of the parents to meet the children's needs;
- (b) the change must materially affect the children; and
- (c) the change was either not foreseen or could not have been reasonably contemplated by the judge who made the initial order.

2. The burden of proving the material change rests on the person asking for the order to be changed: Ms. Key.

3. If there has been no material change proven, I do not have jurisdiction to vary the order.

4. Ms. Key has failed to prove there is a material change in circumstances which has occurred since the Consent Variation Order was granted in July 2016.

Elizabeth Jollimore, J.S.C.(F.D.)