

**SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: *Mogg v. Reid*, 2021 NSSC 15**

ENDORSEMENT

January 18, 2021

**Rebecca Lea Mogg and Andrew James Reid
SFHISOS-115429**

Ms. Mogg seeks \$700.00 per month in child support prospectively, and retroactively to March 1, 2017.

Decision:

Prospective and retroactive child support has been determined as follows:

Prospective

Between February 2020, and September 2021, Mr. Reid shall pay prospective table amount of child support of \$258 per month to Ms. Mogg.

As of October 1, 2021, Mr. Reid shall pay prospective table amount of child support of \$341.00 per month to Ms. Mogg.

Retroactive

Mr. Reid must pay Ms. Mogg retroactive child support as follows: \$4,205.00 for 2017; \$3,588.00 for 2018; \$4,092.00 for 2019; \$2,076.00 for 2020; and \$54.00 for January 2021, for a total adjusted retroactive payment of \$14,015.00.

To address the \$14,015.00 retroactive underpayment owed by Mr. Reid to Ms. Mogg, Mr. Reid shall pay \$234.00 per month to Ms. Mogg, starting February 1, 2021, until the entire amount is paid.

Total monthly child support payment

The total monthly child support payment (prospective and retroactive), between February 1, 2021, and September 2021 is $\$258 + \$234 = \$492$ to be paid monthly by Mr. Reid to Ms. Mogg.

The total monthly child support payment (prospective and retroactive), beginning October 1, 2021, and thereafter, is $\$341 + \$234 = \$575.00$ to be paid monthly by Mr. Reid to Ms. Mogg.

Note: The above noted amounts apply only if Mr. Reid has made payments of \$204.00, monthly, between August 1, 2020, and January 1, 2021. If not, the retroactive payment shall be adjusted accordingly.

Mr. Reid shall disclose his income from “all” sources to Ms. Mogg by June 1 every year.

Reasons:

Background

1. The parties' child was born in May 2011. The parties resided together between March 2012 and October 2016. In January 2017, Mr. Reid left the jurisdiction for work, and in February 2017, he advised Ms. Mogg that he was ending their relationship.
2. On March 12, 2017, Ms. Mogg received a text message from Mr. Reid indicating he was prepared to pay \$698.00 per month in child support:

“I’ll pay you the amount agreed upon for [A] which is 698. Anything more you can go to court with a shitty public defender and I’ll take my chances”.
3. In a message to Mr. Reid, Ms. Mogg acknowledged receiving \$700.00 from Mr. Reid in mid February 2017. In response Mr. Reid stated he would be providing \$1000.00 on the “20th”, and \$350.00 on the “8th”. The only evidence of Mr. Reid making child support payment to Ms. Mogg was for the month of February 2017, and pursuant to an interim order, starting in August 2020.
4. In August 2017 Mr. Reid stated:

“sorry its not much but it will be 250 every two weeks from now on”

No evidence was provided of Mr. Reid making any \$250.00 payments to Ms. Mogg.

5. In April 2019, Mr. Reid sent a text message to Ms. Mogg stating:

“Like I said, I’m more than willing to pay you if I get some kind of access. If not, I’ll keep living here outside any lines of jurisdiction. I do have a good job, I work for one of the 10 largest data Centres in the world...”

Proceeding

6. This matter came before me pursuant to the *Interjurisdictional Support Orders Act* SNS 2002, c. 9. The legislation deals with financial support only, not parenting time. Payment of child support is not dependent on the parenting time Mr. Reid may have with the child.

7. On November 25, 2019, the Supreme Court of Nova Scotia, Family Division, received an Interjurisdictional Support Orders package completed by Ms. Mogg. Ms. Mogg sought to have income imputed to Mr. Reid, and she sought payment of \$700 per month in child support from March 2017 onward.

8. Ms. Mogg has stated in part that Mr. Reid:

“keeps moving and changing jobs which makes it hard for me to get a child support order. He has even told me that if an order is made he will keep moving to make it hard for family maintenance to find him because he isn’t going to pay for a child whose life he isn’t a part of”.

Upon receiving Ms. Mogg’s *Interjurisdictional Support Orders Act* application, Efforts were made by the court to locate Mr. Reid. Mr. Reid was served with the *Interjurisdictional Support Orders’* package on January 29, 2020.

9. In February 2020, Mr. Reid completed a Response to Application under the *Interjurisdictional Support Orders Act*. Under Household income (if living with another person), Mr. Reid stated he would be filing an Undue Hardship application, as he must pay child support for another child, E (parent JG), and that he owes \$5,640.00 in child support per agreement between those

parties. He does not reside with JG or E. Mr. Reid provided no information about his current spouse.

10. Mr. Reid did not file the necessary documents for an Undue Hardship Application as contemplated under the *Nova Scotia Child Support Guidelines*.

February 2020

11. In February 2020 Mr. Reid filed the following financial information with his Response:

- a. Four pay statements from 3258671 Nova Scotia Limited (Oceanstone Seaside Resort).
 - i. December 8, 2019 to December 21, 2019, gross pay and tips \$1,272.96, and year to date \$3,910.87 for 72 hours:
 1. The pay statement for a two-week period between the pay periods reflected in pay stub (i), and pay stub (ii), indicates Mr. Reid earned \$1,640.13. This pay stub was not provided in February 2020, but reflected on the Record of Employment (ROE), filed after the hearing on October 16, 2020.
 - ii. January 5, 2020 to January 18, 2020, gross pay and tips \$1,414.40, and year to date \$3,054.53 for 72 hours;
 - iii. January 19, 2020 to February 1, 2020, gross pay and tips \$1,131.52, and year to date \$4,186.05 for 64 hours; and
 - iv. February 2, 2020 to February 15, 2020, gross pay and tips \$848.64, and year to date \$5,034.69 for 48 hours.
- b. Two Notices of Assessment. For taxation year 2017 indicating a line 150 total income amount of \$40,947. For taxation year 2018 indicating a line 150 total income of \$24,051.00.

12. In February 2020, Mr. Reid has acknowledged paternity of the child, and Ms. Mogg acknowledged the jurisdiction of the Supreme Court of Nova Scotia (Family Division). Mr. Reid requested an adjournment to retain legal counsel.

June 2020

13. On June 18, 2020, Mr. Reid failed to appear by telephone at the *Interjurisdictional Support Orders* hearing. A Without Prejudice Interim Order was granted, imputing an income of \$40,947 to Mr. Reid, for a payment of \$349.00 per month, beginning August 1, 2020. It was later determined that Mr. Reid was provided inaccurate information to dial in to the hearing to be held by telephone. A further date was set for the continuation of the hearing.

July 2020

14. On July 29, 2020, the *Interjurisdictional Support Orders* hearing continued. Mr. Reid failed to file affidavit evidence, but when asked to explain his work history he stated as follows:

- a. He had worked as a camp manager at Fort McMurray for several years, and he had been earning approximately \$75,000.00, until he was laid off in 2017. Mr. Reid stated that he had been employed as a cook, and that he has a high school education. He explained that the oil market collapsed in 2018, and the wages he was previously earning were no longer available to him.
- b. His most recent job was as a night manager of a hotel (Oceanstone Seaside Resort). He claimed that he was injured on the job on February 26, 2020, he qualified for worker's compensation, and was subsequently laid off his job in March 2020. He stated that as of July 2020, he continued to be in receipt of worker's compensation benefits, and thus far he had earned \$11,200.00.
- c. Mr. Reid claimed he had earned \$22,000.00 in 2019.

Mr. Reid agreed to provide the court, and Ms. Mogg with documentation to support his claims, including documentation from the Worker's Compensation program.

15. An Amended Without Prejudice Interim Order was granted on an interim basis. Pending further disclosure from Mr. Reid, his income was re-assessed at \$22,000 for 2019, attracting an interim child support payment of \$154.00 per month starting August 1, 2020. He was also ordered to pay an additional \$50 per month to Ms. Mogg toward an anticipated retroactive child support award dating back to March 2017.

16. In August 2020, Mr. Reid filed several Records of Employment (ROE) documents for various jobs:

- a. Tomcat Holdings Ltd – Tim Horton's - October 1, 2019 through November 1, 2019, total insurable earnings of \$2,822.42, quit;
- b. Sports Direct Inc – September 1, 2019 through October 31, 2019, total insurable earnings of \$844.45, quit to take another job;
- c. Sobey's – August 12, 2019 through September 21, 2019, total insurable earnings of \$2,100.00, quit; and
- d. NTT Data Canada, Inc – April 8, 2019 through May 25, 2019, total insurable earnings of \$2,917.72, quit.

October 16, 2020

17. On October 16, 2020, the *Interjurisdictional Support Orders* hearing was concluded. Both parties participated by telephone. Ms. Mogg confirmed she continued to seek a finding that Mr. Reid pay \$700.00 per month starting in March 2017, and continuing until further order of the court.

18. Mr. Reid did not file an affidavit explaining his history of employment. He stated that he had been earning \$17.00 per hour working at Oceanstone Seaside Resort. He claimed that had he continued in his position, that he would likely have earned \$25,000.00 per year.

19. Mr. Reid advised the court he had earned \$22,000 in 2017, \$24,600 in 2018, and \$27,850 in 2019. He stated he expected to earn between \$20,000, and

\$25,000 in 2020. Mr. Reid was given one last opportunity to file financial information he wished to file to support his position.

20. After the hearing on October 16, 2020, Mr. Reid filed the following documents:

- i. A Record of Employment for Oceanstone Seaside Resort, where Mr. Reid worked between November 10, 2019 and February 29, 2020. Showing total insurable earnings of \$9,648.34. The Record of Employment indicates he was let go due to “shortage of work”.
- ii. He re-filed Notices of Assessment for 2017 and for 2018, but also provided a Notice of Assessment for 2019, with a line 150 total income of \$22,268.

Mr. Reid has never filed copies of his personal income tax returns for 2017, 2018, or 2019 (T1 General, or any re-assessments). He also filed:

- iii. T4 documents for employment with the following employers:
 1. Fortune Doughnuts Inc - \$3,902.08 in 2019;
 2. 3258671 Nova Scotia Limited - \$3,910.87 in 2019;
 3. 1925369 Ontario Limited - \$9,644.71 in 2018;
 4. Sports Direct - \$1,680.05 in 2018;
 5. Aramark Remote Workplace Services Ltd - \$24,264.25 in 2017;
 6. Redrock Camps Inc - \$12,010.36 in 2017; and
 7. SIR CORP Nova Scotia - \$2,917.74 in 2017.

He failed to provide any documentary evidence regarding the benefits he received through worker’s compensation, and he failed to explain, and to account for any other benefits he would have been expected to receive when he was unemployed.

18. The record of employment (ROE) provided to him by Oceanstone Seaside Resort for the period November 10, 2019, through February 29, 2020, indicates Mr. Reid earned the following: Pay period 1, \$702.78; 2 \$848.64; 3 \$1,131.52; 4 \$1,414.40; 5 \$1,640.13; 6 \$1,272.96; 7 \$1,187.98; and 8 \$1,449.93, for a total of \$9,648.34 earned at Oceanstone Seaside Resort in

less than 4 months. The \$17 per hour, with a likely \$25,000.00, yearly income, represented by Mr. Reid when questioned by the court, did not account for tips, and stat holiday hourly pay of \$25.50 per hour, etc.

19. I have considered all the evidence filed by the parties, the totality of the circumstances, including information provided by Ms. Mogg regarding Mr. Reid's personal circumstances, and the difficulties and delays related to bringing this matter to court to have Mr. Reid pay child support. I have also considered various statements made by Mr. Reid, and the financial information filed by Mr. Reid.

20. Mr. Reid provided insufficient information regarding his history of employment, and his efforts to maintain full time employment. The court had insufficient information to accurately determine Mr. Reid's income between March 2017 and October 2020. It was Mr. Reid's obligation to provide a sufficient explanation, by affidavit, and through documentary evidence, in support of his position.

2017

21. For 2017, Mr. Reid's line 150 total income on his Notice of Assessment is \$40,947. When asked at the hearing on October 16, 2020, Mr. Reid indicated he earned \$22,000 in 2017. I do not accept his oral evidence on that point. Mr. Reid filed T4 statements for 2017 for Aramark, Redrock, and SIR CORP, for a total income of approximately \$40,000.00. Mr. Reid did not provide an affidavit confirming his employment history, including when he was laid off, his efforts to secure further employment, his efforts to secure benefits once he was laid off. Given the lack of full financial disclosure, questions remain about Mr. Reid's income from all sources, including any benefits he was eligible to receive. It is also unclear where Mr. Reid was residing throughout 2017.

22. Mr. Reid's income is imputed at \$50,000.00 for 2017. Based on the Nova Scotia Child Support Tables Mr. Reid owes \$420 per month to Ms. Mogg for the period between March 2017, and November 2017, for a total of \$3,780. The child support tables changed in November 2017. Mr. Reid would owe \$425.00 for December 2017, for a total retroactive award of \$4,205.00 for 2017.

2018

23. For 2018, Mr. Reid's line 150 total income on his Notice of Assessment was \$24,051.00. On October 16, 2020, Mr. Reid indicated he earned \$24,600 in 2018. Upon review of the T4 slips provided by Mr. Reid I am only able to account for employment income of \$9,644.71, with 1925369 Ontario Limited, and employment income of \$1,680.05 with Sports Direct. It is unclear how long he worked at either job, and it is unclear whether he filed all his T4 slips for that year.

24. There was a lack of full financial disclosure, and a lack of explanation regarding his efforts to retain full time employment in 2018, or secure benefits. A question remains about what income Mr. Reid earned from all sources in 2018. It is unclear when, or if, Mr. Reid moved to Ontario, or exactly where he was residing in 2018.

25. Mr. Reid's income is imputed at \$35,000.00 for 2018. Based on the Nova Scotia Child Support Tables Mr. Reid owes \$299.00 per month to Ms. Mogg, for the period between January 2018, and December 2018, for a total retroactive award of \$3,588.00 for 2018.

2019

26. For 2019, Mr. Reid's line 150 total income on his Notice of Assessment was \$22,268. However, when asked on October 16, 2020, Mr. Reid indicated his income for 2019 was \$27,850.

- a. Mr. Reid provided two T4 documents which indicate he received employment income of \$3,902.00 from Fortune Doughnuts Inc, and \$3,910.87, from 3258671 Nova Scotia Limited 2019, (Nov 10, 2019 through the end of December).
- b. According to the Records of Employment (REO) filed by Mr. Reid, he also received the following employment income in 2019:
 - i. \$2,917.72 from NTT Data Canada, Inc, for work between April 8, 2019, and May 25, 2019, and then he quit;
 - ii. \$2,100.00 from Sobey's for work between August 12, 2019, and September 21, 2019, and then he quit;

iii. \$844.45 from Sports Direct Inc, for the period between September 1, 2019, and October 31, 2019, and his record of employment indicates he “quit to take another job”; and

iv. \$2,822.42 from Tomcat Holdings Ltd – Tim Horton’s for work between October 1, 2019, and November 1, 2019, then he quit.

27. The total employment income represented in financial documents disclosed by Mr. Reid for 2019, was \$16,497.46. It is unclear where Mr. Reid worked to earn the additional income up to \$27,850. It is also unclear what benefits he may have been eligible to receive when not employed. Mr. Reid did not report an income for the periods between January 2019, and March 2019, or for June 2019, July 2019, and a few weeks in August of 2019. He provided no evidence to assist the court in reconciling his reported income in 2019, with the documents filed, and did not provide evidence to explain why it appears he quit his job at the end of May, 2019, before securing new employment in August, 2019.

28. As noted in paragraph five, in April 2019, Mr. Reid had written to Ms. Mogg indicating he had a good job and was working for a “data centre”:

“I do have a good job, I work for one of the 10 largest data Centres in the world...”

By May 25, 2019, Mr. Reid quit that job.

29. Given the lack of full financial disclosure, and the questions remaining about what jobs Mr. Reid had in 2019, or what efforts he made to become, or to remain fully employed in 2019, or to apply for any benefits available to him, I am imputing an income of \$40,000.00 to Mr. Reid for 2019.

30. Based on the Nova Scotia Child Support Tables Mr. Reid owes \$341.00 per month to Ms. Mogg, for the period between January 2019, and December 2019, for a total retroactive award of \$4,092.00 for 2019.

2020

31. During the first part of 2020, Mr. Reid was working for Oceanstone Seaside Resort. Mr. Reid did provide documentation indicating he was laid off due

to “shortage of work”, and he received his last payment for work up to February 29, 2020.

32. As noted above, Mr. Reid did not file any affidavits, however, in July 2020 Mr. Reid advised the court he was injured in late February 2020, and he was no longer able to work at Oceanstone Seaside Resort. He had stated he was in receipt of worker’s compensation benefits since his injury in late February 2020. In July 2020, he claimed was not able to look for work as he would lose his worker’s compensation benefits. As noted, he agreed to provide documentary evidence to support his claims, but failed to do so.
33. Mr. Reid was directed to file financial documentation to support his claim that he was injured, and he was in receipt of worker’s compensation benefits, which are tax free. He did not. Had Mr. Reid filed the information as agreed, the court would have had an opportunity to confirm his circumstances, and to “gross up” any worker’s compensation benefits he may have received in 2020, to help make a fair assessment of his total income for child support for 2020. Grossing up his worker’s compensation benefits would be necessary to arrive at Mr. Reid’s total annual income for child support for 2020. As of July 2020, Mr. Reid claimed he had earned \$11,200.
34. When imputing income to Mr. Reid for 2020, I have considered Mr. Reid’s employment history as a cook, as a hotel night manager, as an employee working for a data company, and I have considered the ongoing difficulties in the food services / delivery industry in 2020, due to COVID 19. I have also considered Mr. Reid’s efforts to avoid paying child support, and the lack of evidence related to any injury, or evidence regarding the amount of worker’s compensation he may have received. After considering all the evidence, I am imputing an income of \$30,000.00 to Mr. Reid for 2020.
35. Based on the Nova Scotia Child Support Tables Mr. Reid owes Ms. Mogg \$258.00 per month for 2020.
 - a. Accounting for any interim child support Mr. Reid payed starting August 1, 2020, \$154 in prospective support + \$50 in retroactive support = \$204 per month, it is expected that Mr. Reid would have paid \$204 for five months, August 1, September 1, October 1, November 1, and December 1, 2020. If he did make those payments,

he would owe Ms. Mogg $\$258.00 \times 12 = \$3,096 - (\$204 \times 5) \$1,020 = \$2,076.00$ for 2020.

2021

36. Between January 2021, and September 2021, Mr. Reid shall pay prospective child support of \$258.00 per month to Ms. Mogg based on an imputed annual income of \$30,000.00.

- a. Assuming Mr. Reid made a payment of \$204 on January 1, 2021, the amount owing for January 2021 is $\$258 - \$204 = \$54$.

37. As of October 2021, Mr. Reid shall make payments to Ms. Mogg based on an imputed employment income of \$40,000.00, and therefore \$341.00 per month, from October 1, 2021 onward.

38. To address the \$14,015.00 retroactive underpayment owed by Mr. Reid, to Ms. Mogg, Mr. Reid shall pay \$234.00 per month to Ms. Mogg, starting February 1, 2021, until the entire amount is paid in full.

February 1, 2021 – September 1, 2021

39. The total monthly child support payment (prospective and retroactive), between February 1, 2021, and September 2021 is $\$258 + \$234 = \$492$ to be paid monthly by Mr. Reid to Ms. Mogg.

October 1, 2021 onward

40. The total monthly child support payment (prospective and retroactive), October 1, 2021 onward is $\$341 + \$234 = \$575.00$ to be paid monthly by Mr. Reid to Ms. Mogg.

Retroactive award to be adjusted according to records held by the Maintenance Enforcement Program (MEP)

41. If Mr. Reid has not made all payments of \$204.00 between August 1, 2020, and January 1, 2021, the total retroactive payment shall be adjusted accordingly.

Ongoing disclosure

42. Mr. Reid shall disclose his income from “all” sources, employment or any benefits, to Ms. Mogg on a yearly basis, by June 1 every year until the child reaches the age of 19.

Cindy G. Cormier, J.S.C.(F.D.)