SUPREME COURT OF NOVA SCOTIA
Citation: *Wright v. MacInnis*, 2023 NSSC 82

Date: 20230302
Docket: *SFHPSA*, No. 126945
Registry: Halifax

Between:

Evan George Wright

Applicant

v

Taylor Katherine MacInnis

Respondent

Judge:	The Honourable Justice Theresa M Forgeron
Heard:	January 9, 10, and March 2, 2023, in Halifax, Nova Scotia
Oral Decision:	March 2, 2023
Written Release:	March 7, 2023
Counsel:	Sydney Hull for the Applicant, Evan Wright Alexander Pink for the Respondent, Taylor MacInnis

By the Court:

Introduction

[1] Oliver is the cherished son of Evan Wright and Taylor MacInnis. Both parties want Oliver to have a happy, family oriented, and well-adjusted life. They both want Oliver to experience opportunities that promote his educational, emotional, and social welfare. Oliver is indeed a fortunate young boy.

[2] Oliver currently lives in a shared parenting arrangement, spending an equal amount of time with each of the parties. A shared parenting plan, however, is not feasible in the long term because Mr. Wright lives in the Halifax Regional Municipality and Ms. MacInnis lives in Antigonish. Oliver will be starting pre-primary in about 18 months.

[3] In the absence of agreement, the parties asked me to decide Oliver's primary residence.

Issues

[4] To decide Oliver's primary residence, I will answer three questions:

- What is the position of each of the parties?
- Who bears the burden of proof?
- Did Ms. MacInnis prove that relocation is in Oliver's best interests?

[5] Before answering these questions, I will offer background information for context.

Background Information

[6] From about 2018 to 2021, Mr. Wright and Ms. MacInnis were involved in an on-and-off relationship. In January 2020, they began to live together in a Halifax apartment. Oliver was born in April 2020. Ms. McInnis experienced a difficult and complicated pregnancy, birth, and recuperation. Fortunately, Ms. MacInnis recovered. She and Oliver are in excellent health.

[7] In September 2020, the parties decided to separate, although they lived together until April 2021 for financial reasons. Ms. MacInnis was on maternity leave and the apartment lease would not expire until April 2021. The parties' relationship was strained, especially during this period.

[8] After Mr. Wright and Ms. MacInnis physically separated in April 2021, they each acquired their own residence. Mr. Wright lived in an apartment in the north end of Halifax, while Ms. MacInnis rented a home, owned by her uncle, which was located in Dartmouth.

[9] After their physical separation, the parties intended to follow a shared parenting arrangement. Despite this intention, Ms. MacInnis had Oliver in her care for at least 60% of the time. Ms. MacInnis often cared for Oliver during Mr. Wright's scheduled time because Mr. Wright had to work, or had made other plans, or was feeling overwhelmed. Further, Ms. MacInnis also provided care when Oliver needed to attend appointments or when he was too sick to go to daycare. The parenting arrangements were informal and flexible. There was no court order or written agreement.

[10] In the spring of 2022, Ms. MacInnis decided to move to Antigonish. Her uncle was selling the home where she and Oliver were living. Ms. MacInnis was concerned about the cost of living in HRM, and she also wanted to be closer to her family. Further, Ms. MacInnis felt that Oliver would benefit from growing up in the small, university town of Antigonish.

[11] At that time, Ms. MacInnis verbally advised Mr. Wright of her plans. She subsequently broached the subject on other occasions. Mr. Wright was not pleased. He offered to financially assist if she would remain in HRM.

[12] On July 18, 2022, Ms. MacInnis and Oliver moved to Antigonish into a three-bedroom mini home which she had purchased.

[13] On August 17, 2022, Mr. Wright commenced court proceedings. He applied to prevent Oliver's relocation to Antigonish, and to have primary care in the event Ms. MacInnis did not return to live in HRM. Because Ms. MacInnis objected to Mr. Wright's application, the matter was scheduled for a contested interim hearing. The parties later agreed that they would adjourn the interim hearing in favour of a final hearing.

[14] The contested relocation application was held on January 9 and 10, 2023. Evidence was provided by Mr. Wright; his sister, Hilary Frazee; Ms. MacInnis; her mother, Kelly MacInnis, and her sister, Cassie MacInnis. In addition, the affidavit of Christine MacDonald was tendered without cross examination. After submissions were provided, I adjourned for oral decision which was rendered on March 2, 2023.

Analysis

[15] **What is the position of each of the parties?**

Position of Mr. Wright

[16] Mr. Wright submits that Ms. MacInnis bears the burden of proof, which she failed to discharge. Mr. Wright states that it is in Oliver's best interests to be in his primary care in the event Ms. MacInnis does not return to HRM.

[17] Mr. Wright says that Ms. MacInnis' proposed relocation will significantly alter Oliver's relationship with him. In addition, from his perspective, a child-focused analysis of the relevant statutory factors confirms that Oliver's best interests are served by having him live in Halifax. Conversely, allowing the relocation would be destabilizing and contrary to Oliver's best interests.

[18] Further, Mr. Wright requests that I consider the following factors which he states favour his position:

- Oliver lived in Halifax until his unilateral and unauthorized relocation to Antigonish. The "move first and ask questions later" approach is consistently disavowed by courts and ought not to be sanctioned in this case.

- If Oliver lives in Antigonish, his parenting time with Mr. Wright will be significantly restricted.

- Oliver has considerable connections to Halifax, including his aunt and uncle who provide Oliver with love and support, together with other close family members who live in the Halifax region.

- Oliver loves his daycare provider in Halifax and has close friendships with some of the children who attend the daycare.

- Oliver will benefit from the sporting and other activities available in HRM. Mr. Wright was involved in sports, particularly hockey, and wants Oliver to enjoy a similar upbringing.

- Mr. Wright was a dedicated and hands-on parent who can meet all of Oliver's primary care needs in an exemplary fashion. He loves his son.

- Ms. MacInnis' move to Antigonish is indicative of her inability to prioritize Oliver's needs and her failure to appreciate the consequences of removing Oliver from the care of his father, his extended paternal family, and his life in Halifax.

- Ms. MacInnis' move to Antigonish was done with little planning and confirms that Ms. MacInnis minimizes the importance of the father son relationship.

[19] Mr. Wright asks that his application be granted such that Oliver's primary residence is designated as Halifax. If Ms. MacInnis does not return to HRM, then it is in Oliver's best interests to be in his primary care. If Ms. MacInnis returns to HRM, then the shared parenting arrangement can continue.

Position of Ms. MacInnis

[20] Ms. MacInnis states that each party bears the burden of proving their respective applications. Further, she indicates that it is in Oliver's best interests to live in her primary care in Antigonish for reasons which include the following:

- Ms. MacInnis was Oliver's primary care provider before and after separation. She was the parent who physically spent more time with Oliver. She was also the parent who organized his health, nutritional, and social welfare needs and made associated decisions. Even though Mr. Wright was an excellent father, she was the parent who, for the most part, assumed primary carriage of the details of Oliver's life.

- Mr. Wright does not have the job flexibility that Ms. MacInnis had or has. He is the owner of a very busy construction company who not only oversees physical labour but is also in charge of all management responsibilities. In contrast, Ms. MacInnis has more employment flexibility as an employee, including the ability to take sick days when required.

- Ms. MacInnis' move to Antigonish was not done to interfere with or minimize Oliver's relationship with Mr. Wright. Rather, the move was necessitated by a loss of housing, the recognition of the high cost of living in HRM, and a desire to have Oliver raised in a small community where she has the support of family. Ms. MacInnis states that she always intended to live and work in Antigonish. Ms. MacInnis notes that she has permanent, full-time employment in Antigonish.

[21] **Who bears the burden of proof?**

[22] Mr. Wright states that Ms. MacInnis bears the burden of proof based on s.18H (1A) (c) of the *Parenting and Support Act*, 2015, c. 44 which states:

> **(1A)** The burden of proof under subsection (1) is allocated as follows:
>
> **…**
>
> **(c)** where there is no order or agreement as referred to in clause (a) or (b) but there is an informal or tacit arrangement between the parties in relation to the care of the child establishing a pattern of care in which the child spends substantially equal time in the care of each party, the party who intends to relocate the child has the burden of proving that the relocation would be in the best interests of the child;

[23] On the other hand, Ms. MacInnis states that each party must prove their own case as s.18(1A)(c) does not apply because she was the primary care parent. She states that Oliver did not spend substantially equal time in the care of each of them. Rather, before July 2022, Oliver spent more time with her. From her perspective, s.18 (1A)(e) applies:

> **(1A)** The burden of proof under subsection (1) is allocated as follows:
>
> **….**
>
> (e) for situations other than those set out in clauses (a) to (d), all parties to the application have the burden of showing what is in the best interests of the child.

[24] Each party's view about the burden of proof arises from their characterization of the informal arrangement that governed Oliver's parenting. Mr. Wright states that Oliver spent substantially equal time with both parents while Ms. MacInnis points to her primary care status.

[25] I must now decide what "substantially equal time" means in the context of these parents and Oliver. In reaching my decision, I adopt the reasoning stated in ***JEW v WED***, 2019 NSSC 141wherein earlier versions of the *PSA*'s relocation presumptions were analyzed, and a child-centric interpretative approach was adopted.

[26] In the current case, for the period prior to July 2022, I find that Oliver was in Ms. MacInnis' primary care. By this I mean that Oliver was in Ms. MacInnis' care more than he was in the care of Mr. Wright. I find that Ms. MacInnis had Oliver in her care at least 60% of the time. I also find that despite Ms. MacInnis' primary care status, Oliver nevertheless spent a significant amount of time in Mr. Wright's care. Further, after July 2022, Oliver spent substantially equal parenting time with both parents.

[27] Given these findings, I conclude that Ms. MacInnis bears the burden of proving that relocation is in Oliver's best interests.

[28] **Did Ms. MacInnis prove that relocation is in Oliver's best interests?**

[29] In answering this question, I must follow the relocation framework reviewed in ***Barendregt v Grebliunas,*** 2022 SCC 22. At para 107 of that decision, it was confirmed that both the *Divorce Act* and the *PSA* were recently amended to apply a similar statutory scheme to relocation applications. I will now briefly examine the relevant relocation principles, noting that the parties confirmed that violence was not an issue that I needed to address.

Review of Law

A. Contextual Analysis

[30] ***Barendregt*** held that the best interests inquiry is highly contextual, with the child's welfare being at the heart of the inquiry. In addition, although noting that the history of caregiving is a relevant consideration, ultimately the court must determine the relocation request in the context of the particular child in the particular circumstances of the case:

> [123] Therefore, in all cases, the history of caregiving will be relevant. And while it may not be useful to label the attention courts pay to the views of the parent as a separate "great respect" principle, the history of caregiving will sometimes warrant a burden of proof in favour of one parent. Indeed, federal and provincial legislatures have increasingly enacted presumptions, bringing clarity to the law. In all cases,

> however, the inquiry remains an individual one. The judge must consider the best interests of the particular child in the particular circumstances of the case. Other considerations may demonstrate that relocation is in the child's best interests, even if the parties have historically co-parented.

B. Reasons for Moving

[31] Further, while observing that legislative amendments instruct courts to consider the reasons for moving, the Supreme Court of Canada cautioned against casting judgment on a parent's reasons, or allowing those reasons to deflect from the true focus of the application:

> [129] That said, the court should avoid casting judgment on a parent's reasons for moving. A moving parent need not prove the move is justified. And a lack of a compelling reason for the move, in and of itself, should not count against a parent, unless it reflects adversely on a parent's ability to meet the needs of the child: *Ligate v. Richardson* (1997), 34 O.R. (3d) 423 (C.A.), at p. 434.
>
> [130] Ultimately, the moving parent's reasons for relocating must not deflect from the focus of relocation applications — they must be considered only to the extent they are relevant to the best interests of the child.

C. Maximum Contact Principle Displaced

[32] The SCC also discussed the interpretative overreach that courts often incorrectly applied when discussing the maximum contact principle. The maximum contact principle is properly referenced as the "parenting time factor", and that parenting time must always be consistent with the child's best interests:

> [134] Although *Gordon* placed emphasis on the "maximum contact principle", it was clear that the best interests of the child are the sole consideration in relocation cases, and "if other factors show that it would not be in the child's best interests, the court can and should restrict contact": *Gordon,* at para. 24; see also para. 49. But in the years since *Gordon,* some courts have interpreted what is known as the "maximum contact principle" as effectively creating a presumption in favour of shared parenting arrangements, equal parenting time, or regular access: *Folahan v. Folahan,* 2013 ONSC 2966, at para. 14 (CanLII); *Slade v. Slade*, 2002 YKSC 40, at para. 10 (CanLII); see also F. Kelly, "Enforcing a Parent/Child Relationship At All Cost? Supervised Access Orders in the Canadian Courts" (2011), 49 *Osgoode Hall L.J.* 277, at pp. 278 and 296-98. Indeed, the term "maximum contact principle" seems to imply that as much contact with both parents as possible will necessarily be in the best interests of the child.
>
> [135] These interpretations overreach. It is worth repeating that what is known as the maximum contact principle is *only* significant to the extent that it is in the

> child's best interests; it must not be used to detract from this inquiry. It is notable that the amended *Divorce Act* recasts the "maximum contact principle" as "[p]arenting time consistent with best interests of child": s. 16(6). This shift in language is more neutral and affirms the child-centric nature of the inquiry. Indeed, going forward, the "maximum contact principle" is better referred to as the "parenting time factor".

D. Double Bind Question

[33] Moreover, the SCC underscored that trial courts are prohibited from asking the double bind question:

> [140] The same approach is now reflected in the *Divorce Act*: s. 16.92(2) precludes the court from considering whether the moving parent would relocate with or without the children. I would add that a responding parent could just as easily fall victim to the problematic inferences associated with the double bind: see *Joseph v. Washington*, 2021 BCSC 2014, at paras. 101-11 (CanLII). Therefore, in all cases, the court should not consider how the outcome of an application would affect the parties' relocation plans.

E. Relocation Framework

[34] Finally, a relocation framework was outlined:

> [152] The crucial question is **whether relocation is in the best interests of the child, having regard to the child's physical, emotional and psychological safety, security and well-being. This inquiry is highly fact-specific and discretionary**.
>
> [153] Our jurisprudence and statutes provide a rich foundation for such an inquiry: see, for example, s. 16 of the *Divorce Act*. A court shall consider all factors related to the circumstances of the child, which may include the child's views and preferences, the history of caregiving, any incidents of family violence, or a child's cultural, linguistic, religious and spiritual upbringing and heritage. A court shall also consider each parent's willingness to support the development and maintenance of the child's relationship with the other parent, and shall give effect to the principle that a child should have as much time with each parent, as is consistent with the best interests of the child. These examples are illustrative, not exhaustive. While some of these factors were specifically noted under *Gordon*, they have broad application to the best interests of the child.
>
> [154] However, traditional considerations bearing on the best interests of the child must be considered in the context of the unique challenges posed by relocation cases**. In addition to the factors that a court will generally**

consider when determining the best interests of the child and any applicable notice requirements, a court should also consider:

- the **reasons for the relocation**;
- the **impact of the relocation on the child**;
- the **amount of time spent with the child** by each person who has parenting time or a pending application for a parenting order and the **level of involvement in the child's life** of each of those persons;
- the existence of an **order, arbitral award, or agreement that specifies** the **geographic area in which the child is to reside**;
- the **reasonableness of the proposal of the person who intends to relocate** the child to vary the exercise of parenting time, decision making responsibility or contact, taking into consideration, among other things, the location of the new place of residence and the travel expenses; and
- whether each person who has parenting time or decision-making responsibility or a pending application for a parenting order has **complied with their obligations under family law legislation, an order, arbitral award, or agreement, and the likelihood of future compliance.**

The court should not consider how the outcome of an application would affect either party's relocation plans — for example, whether the person who intends to move with the child would relocate without the child or not relocate. These factors are drawn from s. 16.92(1) and (2) of the *Divorce Act* and largely reflect the evolution of the common law for over 25 years.

F. Additional Best Interests Factors

[35] In addition to this framework, the *PSA* provides an extensive list of best interests factors, including those which touch on the child's physical, emotional, psychological, educational, cultural, and social well-being; the child's need for security and stability; parenting ability; the quality of the parent-child relationship; the history of caregiving; the child's views and preferences; the willingness of each party to support the child's relationship with the other; the history of compliance with prior court orders; the impact of family violence on the child's best interests; and other court proceedings which impact safety concerns.

[36] When making my decision, I considered only the factors addressed by the parties and I have applied a balanced and comparative analysis: ***DAM v CJB***, 2017 NSCA 91.

G. Credibility and Inferences

[37] Further, when determining Oliver's best interests, I made credibility findings in keeping with the law reviewed in ***Baker-Warren v Denault***, 2009 NSSC 59, as approved in ***Gill v Hurst,*** 2011 NSCA 100. In addition, I made inferences in keeping with the comments of Saunders, JA in ***Jacques Home Town Dry Cleaners v Nova Scotia (Attorney General)***, 2013 NSCA 4.

Decision

[38] Before I begin my analysis, I confirm that I will not examine the third option suggested by Mr. Wright – that of having Ms. MacInnis return to live in HRM. That option is not before me. Ms. MacInnis' plan is to remain in Antigonish. Mr. Wright does not intend to live there. Mr. Wright's plan is to remain in Halifax. Ms. MacInnis does not intend to live there.

[39] So, to be clear, my options are to place Oliver in the primary care of Mr. Wright in Halifax or in the primary care of Ms. MacInnis in Antigonish. These are the two plans that I will now examine.

A. Relocation Reasons

[40] Ms. MacInnis' reasons to relocate are sound and assign priority to Oliver. The move was neither haphazard nor ill-conceived. The move was not undertaken as a means to undermine or diminish the father son bond. Ms. MacInnis' appropriate reasons include the following:

- Her uncle landlord was selling his house where she and Oliver were living.
- HRM has a challenging and expensive housing market. In Antigonish, she was able to buy a mini home in a safe, child-friendly area.
- She wanted to raise Oliver in a small-town environment.
- Her family, who are a tremendous support, live in the Antigonish area.

- She had a full-time and permanent job awaiting her in Antigonish.

B. Impact of Relocation on Oliver

[41] Oliver will experience some transitional adjustments as a result of permanently moving to Antigonish. The shared parenting arrangement that started in July 2022 will no longer be feasible once Oliver starts pre-primary. Oliver will then return to a primary care model of parenting – a model that was followed after his birth until July 2022. Oliver will easily transition into a primary care model of parenting with his mother, while having liberal parenting time with his father.

[42] Antigonish is only a two-hour drive from Halifax. The entire highway will soon be twinned. Mr. Wright and Oliver will have many opportunities to spend time with each other on weekends, long weekends, vacations, and holidays. Further, Mr. Wright's parents only live about 30 minutes from Antigonish, which provides another affordable venue for visits. In addition, virtual contact will also be facilitated.

[43] Moreover, Oliver's move to Antigonish had positive impacts. For example, in Antigonish, Oliver has the stability of a permanent home in a safe, child-friendly neighbourhood. In contrast, in Halifax, Oliver lived in rental accommodations which changed over time. Second, Oliver has the support of his grandmother and aunt to help when needed. In contrast, in Halifax, Mr. Wright took Oliver to various work sites when Oliver was unable to attend daycare because of illness. Oliver has more available family support in Antigonish than in Halifax.

[44] In summary, if his primary residence is Antigonish, Oliver will eventually return to the primary care model of parenting that he enjoyed from birth until July 2022. He will also enjoy a stable home and will be near his maternal relatives. In addition, he will continue to have meaningful and liberal parenting time with his father, and with his paternal relatives.

C. Time Spent/History of Childcare

[45] While Mr. Wright was and is a devoted and loving father, Ms. MacInnis was nonetheless Oliver's primary care parent. In reaching this conclusion, I apply the reasoning of Roscoe, JA in ***Burns v Burns***, 2000 NSCA 1, who held that a custodial (primary care parent) was the one who assumes two distinct parenting functions. First, a custodial parent generally assumes decision-making responsibility over important matters concerning the child's health, safety,

education, and overall welfare. Second, the custodial parent generally assumes responsibility for countless less significant, but obligatory, daily arrangements.

[46] I find that Ms. MacInnis assumed both of these functions. She generally was the parent who made most of the important and mundane decisions effecting Oliver's health, diet, day-to-day care, and general welfare. Mr. Wright looked to her for guidance.

[47] Further, Ms. MacInnis was the parent who spent more physical time with Oliver. In so finding, I recognize that Mr. Wright was also housebound for about two months because of COVID restrictions after Oliver was born. However, Ms. MacInnis was the parent who took maternity leave. Further, after returning to work, she continued to be the parent who spent more time with Oliver. Mr. Wright had to focus on his business. Ms. MacInnis had more flexibility.

[48] Ms. MacInnis' primary care role continued after the parties physically separated until July 2022 when Ms. MacInnis moved to Antigonish. During this period, Ms. MacInnis cared for Oliver at least 60% of the time. Shared parenting was only exercised after Ms. MacInnis moved to Antigonish.

D. Changes to Parenting Arrangements and Additional Expenses

[49] Relocation will not result in fundamental changes to the current parenting plan. For example, the parties will continue to discuss parenting decisions. Both parties will continue to be deeply involved in Oliver's life. Both parties will continue to ensure that Oliver benefits from the love and support of their extended family and friends.

[50] Although a shared parenting arrangement will not be feasible in about 18 months, Oliver will nevertheless continue to spend meaningful and liberal parenting time with Mr. Wright. Further, Oliver spent much of his life in the primary care of his mother. A return to a primary care model of parenting will be an easy transition for Oliver.

[51] Antigonish is only two hours away. The parties share travel by meeting in Truro for parenting exchanges. Ms. MacInnis is not seeking child support to offset any additional costs associated with travel expenses.

E. Notice of Move

[52] Ms. MacInnis did not provide written notice of her intended move as required. Ms. MacInnis should have provided notice as set out in the legislation. Verbal notice was insufficient. Lack of written notice is an important factor to consider when analyzing relocation and, also, when considering an award of costs.

[53] On the other hand, I nevertheless dismiss Mr. Wright's suggestion that the lack of written notice is emblematic of Ms. MacInnis' minimization of his relationship with Oliver. It was not. Ms. MacInnis is fully aware that Oliver loves his father and benefits from a healthy and happy relationship with him. Ms. MacInnis actively promotes Oliver's relationship with Mr. Wright.

F. Child's Needs

[54] Oliver is fortunate to have two competent and loving parents who are able to meet his physical, emotional, and social welfare needs.

[55] The parties are able to meet Oliver's physical needs because they are educated and financially stable. Mr. Wright owns his own construction company. He currently has one employee. His business is successful. He has savings and rents an apartment in the north end of Halifax. Mr. Wright has not re-partnered. His sister and brother-in-law live nearby and provide support.

[56] For her part, Ms. MacInnis is a nurse who is employed at the hospital in Antigonish. She is also studying to be a nurse practitioner. Ms. MacInnis owns her home in Antigonish. Her younger sister, who attends St. F X, also lives with her. Ms. MacInnis has not re-partnered and has the support of her family.

[57] Further, both parties are capable of meeting Oliver's emotional and social welfare needs. I find, however, that Oliver has a stronger bond with Ms. MacInnis. This arises because Ms. MacInnis is an exceptional parent who cared for Oliver most of the time, including when he was sick, and Mr. Wright had to work. I note that Oliver's adjustment issues were experienced when he was transitioning to Mr. Wright's care. There were no adjustment issues with Ms. MacInnis.

[58] Both parties will continue to parent Oliver in a manner that will enhance his physical, emotional, and social welfare needs.

G. Willingness to Support Relationship with Other Parent

[59] Both parties willingly support Oliver's relationship with the other. Mr. Wright did, however, act inappropriately on one occasion during a parenting

exchange when Oliver was upset about leaving Ms. MacInnis. I accept Mr. Wright's apology as sincere and note that there has not been a repeat.

[60] I am satisfied that both parents' love for Oliver will ensure that they will not involve Oliver in any adult matters and that any parenting discussions will be child-focused, meaningful, respectful, and conducted out of Oliver's hearing.

H. Plans for Oliver's Care and Upbringing

[61] Both parties have similar views about how Oliver should be parented. They both place priority on family, education, and activities. They want Oliver to be exposed to many opportunities so that he can develop into a happy, well-adjusted adult.

I. Strength of Relationships

[62] Oliver enjoys positive and healthy relationships with his parents and other family members. Both parties recognize the value of stable and healthy relationships to ground Oliver.

J. Ability to Communicate

[63] For the most part, the parties are able to communicate in an appropriate, child-focused, and respectful manner. There were times when communication was difficult and inappropriate, especially during periods when the parties were unhappily living together or when a stressful situation arose. Fortunately, such occasions were limited and both parties expressed a desire to keep their communication child-focused, respectful, timely, and meaningful.

[64] I encourage each of the parties to communicate in such a manner. If difficult issues arise, you each may want to seek counselling to assist. Oliver's life will be enhanced if all parenting communication is child-focused, respectful, timely, and meaningful.

K. Summary and Finding

[65] After reviewing the evidence, the relocation framework, and legislative best interests factors, I find that Ms. MacInnis proved that it is in Oliver's best interests to relocate to Antigonish and to be placed in her primary care once Oliver starts the pre-primary program. Ms. MacInnis was Oliver's primary care parent in the past. Ms. MacInnis excelled in this role. Ms. MacInnis is better equipped to meet

Oliver's needs as a primary care parent. Further, Ms. MacInnis' reasons to move to Antigonish were child-centered. She has a permanent home in an affordable town and has the support of her extended, loving family.

[66] Conversely, Mr. Wright's parenting plan had some challenges, especially around childcare when Oliver is sick. Because of Mr. Wright's business obligations, he does not have the flexibility to take time off work to stay at home when Oliver is sick. Mr. Wright indicated that he brought Oliver to work sites on some occasions when Oliver was unable to attend daycare because of sickness. Further, Mr. Wright does not have the parenting experience with decision-making that Ms. MacInnis assumed as the primary care parent.

Conclusion

[67] In conclusion, the parties agreed to continue the shared parenting arrangement until September 2024 when Oliver will begin the pre-primary program. At that time, Oliver will be placed in Ms. MacInnis' primary care, with Mr. Wright exercising liberal parenting time. Exchanges will continue to be in Truro.

[68] The parties asked for time to negotiate the terms of the liberal parenting time once I decided Oliver's primary residence. In the event negotiations are not successful, then submissions can be provided so that I can determine the parenting schedule. The parties should also negotiate costs, but in so doing please consider my comments on the notice issue.

[69] Mr. Pink is to draft the order.

[70] Counsel are thanked for their focused and professional representation. You served your clients well.

Forgeron, J