

**SUPREME COURT OF NOVA SCOTIA**  
**(FAMILY DIVISION)**

**Citation:** *Rashid v. Nisar*, 2023 NSSC 254

**Date:** 20230808

**Docket:** *SFH* No. 1201-073852

**Registry:** Halifax

**Between:**

Mehak Rashid

Applicant

v.

Rashid Nisar

Respondent

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Justice Ingersoll

**Heard:** July 31, 2023, in Halifax, Nova Scotia

**Written Decision:** August 8, 2023

**Subject:** Family law: relocation and change in travel time to facilitate parenting time

**Summary:** The father consented to the mother's relocation for work first to Prince Edward Island in September of 2023 and then to New Brunswick in December of 2023. The father asserted that the mother should be required to drive their child the full distance from her residence to Halifax for drop off and pick up to facilitate his parenting time every second weekend.

**Issues:** Should the parent who relocates with the child be required to transport the child back to Halifax and pick the child up in Halifax every second weekend?

**Result:** The parents were ordered to evenly split the driving time to transport the child from her new residence to Halifax for parenting time with her father. The mother was ordered to drive the full distance during the month of August as she had

left the province prior to moving to Prince Edward Island for personal reasons.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***

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

**Citation:** *Rashid v. Nisar*, 2023 NSSC 254

**Date:** 20230808

**Docket:** *SFH* No. 1201-073852

**Registry:** Halifax

**Between:**

Mehak Rashid

Applicant

v.

Rashid Nisar

Respondent

**Judge:** The Honourable Justice Ingersoll

**Heard:** July 31, 2023, in Halifax, Nova Scotia

**Oral Release:** August 8, 2023

**Counsel:** Patience Faubert, with clerk, Lilly Bender, counsel for Mehak  
Rashid  
Rashid Nisar, Self-Represented

**By the Court:**

**1 Introduction**

[1] Mehak Rashid and Rashid Nisar are parents of Anamta Rashid who is six years old. A consent Corollary Relief Order dated November 24, 2022, granted Ms. Rashid primary care of Anamta and parenting time three times a week to Mr. Nisar. Ms. Rashid and Mr. Nisar both live in the Halifax.

[2] Ms. Rashid has accepted an offer of employment as a Correctional Officer I in Renous, New Brunswick conditional on her completing a Correctional Service Canada Correctional Training Program which program commences in Summerside, Prince Edward Island in September of 2023. The offer contemplates that upon successful completion of the Prince Edward Island program in December of 2023 Ms. Rashid would commence her employment in Renous. Ms. Rashid intends to live in nearby Bathurst, New Brunswick. Ms. Rashid thus seeks to relocate with the child first to Prince Edward Island and then to New Brunswick.

[3] Ms. Rashid says that each parent should drive halfway between their respective residences to facilitate Mr. Nisar's parenting time.

[4] Mr. Nisar has consented to Ms. Rashid relocating with the child and has agreed to a variation in his parenting time from the existing three times per week to

every second weekend. Mr. Nisar says that Ms. Rashid should be required to drive the child from Prince Edward Island and then from New Brunswick to Halifax every second weekend to facilitate his parenting time with the child.

[5] In light of Mr. Nisar's consent to Ms. Rashid's relocation to Prince Edward Island and then New Brunswick the issue for the court to determine is the distance each parent will be required to drive to facilitate Mr. Nisar's parenting time with the child every second weekend.

## **2 Ms. Rashid's position**

[6] Ms. Rashid submits that if she is required to drive the child to Halifax every second weekend, she would have to drive thirteen hours every second weekend while living in Prince Edward Island and more than eighteen hours every second weekend while living in New Brunswick.

[7] Ms. Rashid says driving thirteen hours and then eighteen hours every second weekend is simply too far for her to drive every second weekend. Ms. Rashid says that the drive on Friday when she is in Bathurst, New Brunswick would mean that she would not get back home until the early morning on Saturday or require her to stay overnight in Halifax and the return trip on Sunday would see her arriving back home again late on Sunday night. Ms. Rashid says that requiring her to drive both

ways every second weekend would negatively affect her ability to work the weekend when the child is with her father and on Monday.

[8] Ms. Rashid says that she will facilitate daily video calls between Anamta and Mr. Nisar.

### **3 Mr. Nisar's position**

[9] Mr. Nisar says that his child's relocation will result in the loss of his opportunity to see Anamta three times per week.

[10] Mr. Nisar says that in light of his agreement that Ms. Rashid can relocate first to Prince Edward Island and then to Bathurst, New Brunswick that Ms. Rashid should be required to transport the child the full distance from each location to Halifax.

[11] Mr. Nisar says that his job as a driving instructor is tiring and that he is too tired at the end of the day to drive halfway to Prince Edward Island or Bathurst, New Brunswick.

#### 4. The Law

[12] Section 16 (1) of the *Divorce Act*, R.S.C. 1985 (2<sup>nd</sup> Supp), c. 3 stipulates that in making a parenting order I must only take into consideration the best interests of the child of the marriage.

[13] Justice Beaton of the Nova Scotia Court of Appeal in the case of *Weagle v Kendall*, [2023] NSJ No 278, 2023 NSCA 47 held that:

Relocation cases are driven, like all parenting cases, by the question of the best interests of the child(ren). In its recent decision in *Barendregt v. Grebliunas*, 2022 SCC 22 the Supreme Court of Canada recognized the particular burden presented to judges in cases of relocation:

[14]

1. [8] Determining the best interests of the child is a heavy responsibility, with profound impacts on children, families and society. In many cases, the answer is difficult -- the court must choose between competing and often compelling visions of how to best advance the needs and interests of the child. The challenge is even greater in mobility cases. Geographic distance reduces flexibility, disrupts established patterns, and inevitably impacts the relationship between a parent and a child. The forward-looking nature of relocation cases requires judges to

craft a disposition at a fixed point in time that is both sensitive to that child's present circumstances and can withstand the test of time and adversity.

**Best interests of the child**

[15] Ms. Rashid is currently employed as a Booking and Registration Clerk for IWK Community Mental Health making approximately \$36,000.00 per year. This new opportunity as a Correctional Officer 1 could more than double her salary. She deposed that she believes this new non clerical position will allow her to provide a better quality of life for her daughter.

[16] As noted, Mr. Nisar consents to Ms. Rishard relocation with his daughter. He deposed that he consented for the wellbeing of his daughter and because he decided to not be a barrier to Ms. Rashid's career development.

[17] The evidence establishes that it is approximately a 590 KM round trip between Summerside, Prince Edward Island and Halifax and a 920 KM round trip between Bathurst, New Brunswick, and Halifax. The round-trip driving time between Summerside, Prince Edward Island and Halifax is approximately six and a half hours and just over nine hours between Bathurst, New Brunswick, and



Halifax. These times excludes time required for breaks or the meeting to transfer the child from one car to another.

[18] As the Supreme Court of Canada held in *Barendregt (supra)* geographic distance reduces flexibility in parenting arrangements, disrupts established patterns, and inevitably impacts the relationship between a parent and a child. In this case Mr. Nisar seeks to mitigate the fact that Ms. Rashid's relocation greatly increases the geographic distance between father and child by placing the entire driving burden of facilitating his parenting time on Ms. Rashid.

[19] If Ms. Rashid were to do all the driving from Prince Edward Island to Halifax and back once for drop off and once again for pick up every second weekend, she would drive thirteen hours every second weekend and if she were to do all driving from Bathurst, New Brunswick, to Halifax and back once for drop off and again for pick up every second weekend she would drive eighteen hours every second weekend.

[20] Considering Mr. Nisar's circumstances, I note that Mr. Nisar has not adduced any medical evidence supporting a finding that he is medically unable to drive halfway to Prince Edward Island or halfway Bathurst, New Brunswick.

[21] I find that it would not be in the child's best interest to have her mother drive thirteen hours or eighteen hours in one weekend every second weekend. I accept that this amount of driving some of which would be in the middle of the night in possibly difficult winter conditions could affect Ms. Rashid's ability to work the following day, could jeopardize her safety, could put her to considerable expense not just in respect of the gas costs but also for the costs of accommodations in Halifax or elsewhere if she elects to break up the drive and would significantly disrupt her life as a result of spending that much time every second weekend in her vehicle. I find that requiring Ms. Rashid to drive both directions twice every second weekend would in effect punish Ms. Rashid for relocating. A relocation which Mr. Nisar accepts is in the child's best interest.

[22] I find that it follows that if the relocation is in the child's best interest and the relocation results in increased driving time to facilitate parenting time the burden of the increased driving should be shared between the parents. To place all the burden of transporting the child for parenting time on Ms. Rashid is unfair and unnecessary.

[23] The Nova Scotia Court of Appeal in *Hublely v. McRae* 2011 NSCA 25 considered whether a trial judge erred in requiring parents each drive halfway to

facilitate a father's parenting time with his children. The Court of Appeal held that it was reasonable for the judge to have required that the parents share the driving burden caused by the mother's relocation. In particular the Court of Appeal stated:

**41** The seventh ground of appeal is that the judge erred when he ordered the parents to share the driving required for parenting time exchanges. It is interesting that in this regard the judge followed one of Ms. Shepherd's recommendations. The father argues that the mother should have been required to do all the driving and bear all costs related to it as it was her decision to move away from the Halifax area.

**42** There is no merit to this argument. The mere fact that the Respondent chose to return to her home in Glace Bay after the parties' separation does not support the conclusion that she should bear the entire cost of facilitating access. As the primary caregiver of the children, it is questionable whether it would be in their best interests if she were required to bear this cost alone. The judge did not impose an extra burden upon either party as the meeting place is an approximate middle ground between them. His decision to order the parties to

continue to meet halfway between their households and thereby share the cost of transportation was appropriate and reasonable. Again, for us to interfere with this aspect of the decision would amount to this Court retrying a portion of the case.

[24] The Supreme Court of Canada in the case of *Gordon v. Goertz* 1996 CanLII 191 upheld a trial judge's decision to permit a mother to move with a child to Australia. The Court determined that even though it was the mother's desire to move to Australia the parties had to share equally in the cost of the child returning to Canada to have parenting time with the father.

[25] I find that requiring the parents to approximately share equally in the cost and time involved in transporting the child is fair, appropriate, and reasonable. I find that Truro is a fair exchange point for the child when the mother lives in Prince Edward Island and that Amherst, Nova Scotia is a fair exchange point for the child when the mother lives in Bathurst New Brunswick.

[26] I order that while the child lives with her mother in Summerside, Prince Edward Island, that Ms. Rashid transport the child from Summerside, Prince Edward Island to Truro, Nova Scotia on Friday every second weekend and that Mr. Nisar pick up the child from her in Truro and that on Sunday that Mr. Nisar

transport the child back to Truro where her mother will pick her up to return to Summerside. The parties will identify a mutually acceptable transfer location and time in Truro.

[27] I order that while the child lives with her mother in Bathurst, New Brunswick that Ms. Rashid transport the child from Bathurst, New Brunswick to Amherst, Nova Scotia on Friday every second weekend and that Mr. Nisar pick up the child from her in Amherst, Nova Scotia and that on Sunday that Mr. Nisar transport the child to Amherst, Nova Scotia where her mother will pick her up to return to Bathurst. The parties will identify a mutually acceptable transfer location and time in Amherst, Nova Scotia.

[28] Ms. Rashid's evidence establishes that she has temporarily relocated with the child to Campbellton New Brunswick as her partner has relocated there and that she will remain there until she moves to Summerside, Prince Edward Island in September of 2023 to commence her training. The evidence establishes that Ms. Rashid's temporary relocation to Campbellton has nothing to do with Ms. Rashid's new employment opportunity, I understand that Mr. Rashid elected to go to Campbellton to assist her partner. I do not have any evidence that Ms. Rashid is working while staying in Campbellton with her partner.

[29] My reasoning that the parties should share in the parenting time transportation burden arising because of Ms. Rashid's relocation does not apply to the period when Ms. Rashid relocated not for work but simply to assist her partner. It is my understanding based on the evidence that Mr. Nisar's consented to Ms. Rashid relocation to advance her career not to spend time with her partner in advance of her career opportunity. Ms. Rashid's career opportunity did not require that she spend the month of August in Campbellton. I have no evidence that Ms. Rashid could not have remained in Halifax for this month thereby permitting Mr. Nisar to see her daughter three times a week with little transportation costs.

[30] As Ms. Rashid is currently in Campbellton for personal not professional reasons, I am not prepared to download any of the transportation burden to Mr. Nisar. The parties confirmed that Mr. Nisar will have parenting time with his daughter on two weekends in August. I order Ms. Rashid transport the child the full distance from Campbellton to Halifax for both of Mr. Nisar's parenting time weekends in September of 2023 and pick her up in Halifax at the end of the weekend on both of Mr. Nisar's parenting time weekends.

[31] Ms. Rashid has advised the court that she will arrange for either a telephone calls or video call between Anamta and Mr. Nisar daily. Based on this consent I will include this requirement in the order.

[32] I will ask Ms. Faubert to draft the order.

#### **4 Matters not addressed**

[33] In his affidavit, Mr. Nisar has asked that Anamta spend all Religious Festival Days such as EID and all school vacation days with him.

[34] This decision addresses parenting time travel requirements only. The court will schedule a further conference to discuss Mr. Nisar's request regarding parenting time during Religious Festivals and school vacation days.

[35] If either party seeks costs, I will receive written submissions from the parties thirty days following this decision.

Ingersoll, J.