SUPREME COURT OF NOVA SCOTIA
Citation: LeBlanc v. Brown, 2013 NSSC 429

Date: 20130918
Docket: Hfx1201-60244(43109)
Registry: Truro

Between:

Daniel Alexander LeBlanc

Applicant

v.

Rachael Blanche Brown

Respondent

DECISION

Editorial Notice

Names of children have been initialized in this electronic version of the judgment.

Judge: The Honourable Justice Patrick J. Murray

Heard: March 27, 2013, in Truro, Nova Scotia

Written Decision: September 18, 2013

Counsel: Ms. Ann Levangie, Solicitor for the Applicant
Ms. Kerri-Ann Robson, Solicitor for the Respondent

BY THE COURT (Orally):

[1] This matter was heard in this court on March 27, 2013. The Applicant, Daniel LeBlanc, father of D. A. LeBlanc (age 14) and J.E. LeBlanc (age 11), seeks to vary the current custody order to allow for a shared-parenting arrangement on a 50/50 basis between he and the children's mother - his former spouse, the Respondent, Rachael Brown.

[2] Presently both Mr. LeBlanc and Ms. Brown have a joint custody arrangement with Ms. Brown being responsible for primary care. Mr. LeBlanc's parenting time is every other weekend, as well as mid-week parenting on Wednesday of each week and Thursday of the week that he does not have weekend parenting. This arrangement has been in effect since the order of Associate Chief Justice Robert Ferguson dated May 15, 2009 by a divorce judgment dated August 21, 2006, which set out the parenting arrangements in the corollary relief judgment of the same date. The Applicant, Mr. LeBlanc, now seeks a further variation to allow an alternating week-on, week-off arrangement between he and Ms. Brown with respect to their two (2) children, A. and J.. Alternatively, he is seeking increased parenting time.

[3] Mr. LeBlanc submits there are serious difficulties being experienced under the present order and the current schedule. This conflict, he says, is having a negative effect on the children. Ms. Brown's position is that the current schedule is working and the children are, in fact, thriving under the present arrangement. Ms. Brown, therefore, opposes the application for a change and requests that Mr. LeBlanc's application be dismissed.

[4] For greater clarity, I shall review the terms of the 2009 order and then provide some further details about the children, A. and J.. The relevant clause of the variation order is:

> 2(a) The children are to be in the care of and being parented by their father every second weekend from Friday after school until Sunday at 7:00 p.m. In the event there is no school the following Monday the children will be returned to their mother's home by 7:00 p.m. on Monday.

> (b) Every Wednesday of every week from the time Mr. LeBlanc picks up the children from after school until he returns the children to daycare/school on Thursday morning. If there is no school on Thursday the children shall be returned to their mother's home.
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> (c) Each Thursday evening on the weeks that Mr. LeBlanc does not have weekend access from the time he picks up the children from after school until 7:00 p.m. at which time they will be returned to their mother's home. During the summer months he shall return the children by 8:00 p.m.
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> AND IT IS FURTHERED ORDERED that in all other respects the remaining terms of the corollary relief judgment remain in full force and effect.

THE CHILDREN/BACKGROUND

[5] Both parties reside in Enfield within five (5) minutes driving time of each other's residence. Mr. LeBlanc resides with his spouse, Dale LeBlanc. She has a daughter (age 17) and a son (age 14). By all accounts, the children get along well when together with A. and J.. There is no issue that either home does not provide adequate housing or lodging for the children, subject to some issues around the children's personal care needs. On the evidence I have heard, I do not consider those to be major issues.

[6] Mr. LeBlanc is employed full-time with a good job and his spouse, Dale, is also employed full-time. Ms. Brown has also been employed. She has worked from her home. The financial statements have been filed. Employment and income have not been an issue, subject only to Mr. LeBlanc's evidence that he is often home from work early and is able to use that time to spend with A. and J.. He states this has been denied to him by Ms. Brown.

[7] A. is currently in Grade 8 at Riverside Education Centre. His date of birth is March [...], 1999. He plays a lot of hockey and his dad has coached him. We have heard evidence about his hockey, trips to and from the rink, who he travels with, his games, his gear and so on. He plays in the East Hants Minor Hockey Association. In addition, he plays spring hockey and attends summer hockey camps. He is involved in other sports as well, including baseball and soccer. His dad and mom are both involved with his activities and with hockey and baseball.

His dad plays an active role in coaching. Both parents play a role in getting him to practices and games and picking him up, as well as for camps.

[8] J. has just turned 11 years of age on May [...], having been born on that date in 2002. She likes to dance and dances competitively with the RSI Dance School. She is involved with crafts and she has her friends.

LEGAL TEST FOR A VARIATION/ISSUES

[9] Both sides, through their counsel, are in agreement on the issues to be decided in this case and the law. In order for the terms of the corollary relief judgment to be further varied by the Applicant, Mr. LeBlanc must prove there has been a material change in circumstances, and if so, what arrangement is in the best interests of the children. The first issue, therefore, is whether the Applicant has met the threshold test of there being a material change in circumstances since the granting of the last order.

[10] The ultimate issue, as stated in the Applicant's Brief, is: "Should the corollary relief judgment be varied to provide a shared-parenting arrangement?"

[11] While the parties agree on the law and the test to be applied, they differ on whether the test has been met, in terms of the evidence. The parties each view the evidence from a different perspective. Thus, on the application of the law to the evidence, their positions are in opposition to one another, as I have stated. They disagree on whether the evidence supports that there has been a material change.

POSITION OF THE PARTIES

The Applicant - Daniel LeBlanc

[12] The Applicant, Daniel LeBlanc, states in his application there has been a material change in circumstances (as required by S. 17(5) of the *Divorce Act*) since the corollary relief judgment was granted. In paragraph 4, Mr. LeBlanc states:

> In particular, the children have been struggling with the current parent arrangement and the Respondent has not communicated with me in a manner that allows a joint parenting arrangement to work.

[13] The primary complaint of Mr. LeBlanc is that Ms. Brown is inflexible and too rigid in respect of the current schedule. The Applicant's counsel says the Respondent has lost sight of "the forest for the trees". She has, they say, arbitrarily and unilaterally set the pickup time at 3:30 instead of simply after school which is what the order states. In addition, she has refused to allow him to pick up the children early, if he is off, and has gone out of her way to ensure, (by calling the police), that the "letter of the law" as contained in the order is carried out. This has been detrimental to Mr. LeBlanc, the children, and the joint custody arrangement. Such intense and continued conflict, he submits, could not have been contemplated when the 2009 order was made.

[14] In his affidavit, Mr. LeBlanc gives evidence of numerous incidents and occasions over the past year, and previously, which make it very clear Ms. Brown is not willing to communicate effectively. The straw, he states, was when his daughter, while putting her to bed one night, asked him why she couldn't stay with him more and when was he going to do something about it.

[15] He has not received report cards, school information, nor is he advised of medical appointments and, in particular, dental appointments. Thus, since the previous court order in May of 2009, conflict has not improved but it has gotten worse, and deteriorated to the point where a material change has occurred, thus necessitating a change that would be in the best interests of the children.

The Respondent, Ms. Brown's Position

[16] Ms. Brown's position is that there should be no change because there has been no material change since 2009. There was conflict in 2009. There is conflict now. Further conflict does not constitute a material change because it was foreseeable at the time of the 2009 order. That, in effect, was what ACJ Ferguson was attempting to do in 2009 - remedy a conflict. I am aware that report cards were an issue in 2009. She says merely because conflict continues does not mean the "threshold test" has been met. Therefore, the Applicant has not met his burden of proving that a material change has occurred. If there is no material change, that ends the matter.

[17] Ms. Brown, further states, in the event there has been a material change in circumstances, the current schedule ought to prevail as it is in the best interests of the children. Mr. LeBlanc's application, therefore, ought to fail and should be dismissed.

[18] Ms. Brown states there are times of conflict, but there are also times, for example, on March break, when everyone gets along. They stay at the same hotel, they eat at the same restaurant. In addition, they point to evidence that Ms. Brown has given extra time, about fifty percent (50%), for hockey. She says Mr. LeBlanc has had additional time. Further, Ms. Brown says that Mr. LeBlanc has been advised of issues that are significant, such as teeth extraction and braces, for example. He has gotten report cards from the teacher directly. Structure and consistency are needed she states.

[19] The children have settled into a routine under this order and are, in fact, thriving under it. The current schedule is not having a negative impact on the children - quite the contrary. Besides, it is what is in the best interests of the children, not the parents that matters. I hasten to add that the Applicant, Mr. LeBlanc, through his counsel, has stated also, that it is only the best interests of the children that counts.

[20] The current schedule therefore, is one that they, the children, are used to and is one which allows them to spend time with both their mother and father.

ANALYSIS AND DECISION

[21] Most of the evidence in this matter has been by way of affidavit with each of the parties being subject to cross-examination and re-direct examination in court. As counsel have noted, there has been a lot of "he said, she said". In exercising my discretion, I must weigh and assess credibility. In doing so I have read the affidavits and listened to the *viva voce* evidence, meaning the oral evidence, given. I have observed the demeanor of each party as they gave their evidence. Before I comment further as to credibility, I pause to state, as counsel have stated in their summations, that both of these parents clearly love their children and are excellent parents in many respects.

[22] In terms of the law there is the overarching principle and that principle is the best interests of these two (2) children. Here I reference again, Section 17(5) of the *Divorce Act*. In addition, there is the principle that a child of the marriage should have as much contact with each former spouse as is consistent with the best interests of the child.

ISSUES:

Issue #1

1. Whether there has been a material change in circumstances?

[23] In terms of addressing material change and whether there has been one, the Applicant has referred me to the case of **H.(J.M.) v. A.(T.J.),** 2012 NSSC 103, for authority that the well being of children shall be affected, even though they continue to thrive socially and academically. At paragraph 53, the court stated in part:

> ...The intense and continued conflict between the parents could not have been reasonably contemplated when the initial order was made. The current parents' relationship does materially affect the children.

[24] Further, I have been referred to the meaning of "material change in circumstances" as was defined in **McNeil v. Peach**, 2012 NSSC 135, a decision of the Supreme Court Family Division. I will recite in part from paragraph 25:

> A material change in circumstances has been defined as one where, had the facts existed at the time of the prior order, the judge would likely have crafted a different order.

The concluding sentence in that paragraph stated:

> The alleged change in circumstance must be significant and long lasting.

[25] The Respondent, Ms. Brown, has referred me to the case of **Kenny v. Kenny**, 2011 NSSC 428, where Beaton J. at paragraph 8 outlined the test from **Gordon v. Goertz,** 1996 2 S.C.R. 27; namely that change alone is not enough; the

change must have altered the child's needs or the ability of the parents to meet those needs in a fundamental way.

[26] The Respondent, Ms. Brown, submits that simply because A. and J. are older, that does not trigger an automatic change in the circumstances.

EVIDENCE

[27] Turning to the evidence, I am not going to recount all of the events where each party alleges that the other was wronged or in breach of the order. I will highlight some of the more pertinent evidence.

[28] Things came to a head during the past winter during the hockey game which A. had in Tantallon. A. had been registered by his mother for swimming lessons which were to begin during mom's parenting time at 7:00 p.m. Her expectation was that A. would be there. Mr. LeBlanc stated he gave A. a choice. When asked on cross-examination whether he saw a difficulty with his actions Mr. LeBlanc stated: "It wasn't my decision, A. told me he didn't like to go swimming."

[29] A second incident which gave rise to considerable evidence was the "sneaker" incident. Upon A. arriving home from hockey camp with Mr. LeBlanc, Ms. Brown arrived at Mr. LeBlanc's residence with his old sneakers for him (A.) to wear to replace his newer sneakers, the cross-trainers. The Applicant said she just showed up. There is conflicting evidence in that Ms. Brown said her concern was to know that A. had been safely picked up. Mr. LeBlanc said he had called (the Respondent) the night before and that A. was upset that he had to change sneakers. In cross-examination, Mr. LeBlanc stated he was not so sure he had called. Ms. Brown said the new sneakers were purchased for the specific purpose of cross-training and that she phoned and told Mr. LeBlanc she was coming over. She testified that she never asked Mr. LeBlanc to pick him up. She said Mr. LeBlanc knew the hours and when A. never called her, as he was supposed to, she became concerned.

[30] Ms. Levangie, on behalf of the Applicant, states it is not the sneakers, it is what the sneakers represent, namely, Ms. Brown's attitude in undermining Mr. LeBlanc. Here I refer to paragraphs 12 and 8 of Mr. LeBlanc's main affidavit and his reply affidavit and paragraph 6 of Ms. Brown's affidavit.

[31] I credit Ms. Brown as having the right perspective on the hockey versus swimming incident. While at 14 it is more difficult to take that decision away from A., it was Ms. Brown's parenting time and leaving it up to A. is not a complete answer by Mr. LeBlanc, in my respectful view. Ms. Brown "acquitted herself" well on that aspect in terms of what I would call the "big picture".

[32] On the other hand, I credit Mr. LeBlanc with keeping the children "out of it", meaning out of the conflict where possible. My impression from his evidence is that he is genuine in his intent and has taken steps to avoid confrontation in front of the children on several occasions. I concur that in his evidence and demeanor he is child-focussed. Examples are his acceptance (more or less) of the 3:30 pickup time and the issue of the additional Monday, and whether it refers to just holiday Mondays or Mondays when there is no school. The order is worded based on there being "no school", rather than "no school because of a holiday".

[33] In terms of Ms. Brown, I do not accept that she did not give "straight answers" in her evidence. I think for the most part she gave answers based on her understanding of how the order should work. For example, she states she set 3:30 p.m. as the pickup time for consistency and structure. I can see that in the sense that without any time, pickup could be later than 3:30 p.m. On the other hand, such a view denies Mr. LeBlanc of additional time he could be spending with the children in adherence to the principle of maximum contact, which I have alluded to.

[34] A further example of Mr. LeBlanc's tolerance would be what happened on the court date - the March 27th hearing in this matter. The children were supposed to be with him. Due, presumably to the court appearance, Ms. Brown made other arrangements. Mr. LeBlanc appears to have accepted this. In as much as credibility can be a question of degree, so is conflict a question of degree. I think both parents are credible in their own right, but there is conflict due to two (2) completely different approaches to the terms of the order.

[35] Mr. LeBlanc's evidence is that he has no problem with the children seeing their mother on their birthday or her picking them up early. Her evidence is that he has picked them up early, contrary to her understanding, but he has never dropped them off early.

[36] The question is whether the conflict is permanent and lasting such that it may constitute a material change. If conflict is resolved it is no longer permanent, although it may permanently affect the children. Some four (4) years have passed since the making of the current order. While some conflict may have been anticipated, I am satisfied the degree of conflict that exists would not have been and, as such, constitutes a material change.

[37] In addition, the children are not six (6) and ten (10) anymore, they are eleven (11) and fourteen (14). While children growing in age and maturity does not "automatically create room" to argue material change in circumstances, as stated in the **Kenny** decision, children's needs can change over time and, in my view, parenting time will need to be revised from time to time to reflect their ages and stages of development. This principle again is supported by the **Kenny** decision.

[38] In the present case, the evidence shows that both children are moving into significant periods of their growth and in doing so the evidence is they, (and in particular J.), wish to spend some additional time with their father. This is a need they have at the present time. It is time they will not get back. In that way, the need is permanent.

[39] This coupled with the degree of conflict satisfies me, on the balance of probabilities, that Mr. LeBlanc has met the burden of proving that there has been a material change in circumstances since the 2009 order.

[40] In reaching this conclusion, allow me again to state that while I did not deal with all incidents raised in the affidavits, I took them into account and they include, but are not limited to, the following evidence: the evidence pertaining to the foreclosure notice; the hockey gear; dental appointments; the essay; the braces; the report cards; the calling of the police as it applies to both parties; the wallet incident; childcare and babysitters; drives to hockey and baseball; things such as shampoo, underwear, acne pads; pickup and drop-off times; and, the confrontation with Dale LeBlanc at the Cole Harbour rink.

[41] I turn now to address the second issue of the parenting arrangement and the Applicant's request for equal parenting time, to be shared on alternating weeks by Mr. LeBlanc and Ms. Brown.

Issue #2

2. What parenting arrangement is in the best interests of the children?

[42] Both counsel agree that under this question the best interests of the child must always be paramount. That is the governing principle. The focus should not be on either parent or what they want, but on the best interests of these two (2) children. The Applicant says there are responsibilities which come with being the primary care parent that are not being met by Ms. Brown. Whether a shared-parenting arrangement should be ordered is very fact-specific as stated by Justice Wright in **Hackett v. Hackett** [2009] N.S.J. 178. The individual circumstances of each case are to be considered.

[43] These principles, to which I have referred, are contained in the *Divorce Act* and specifically s. 16(8). The Applicant has referred me to the case of **Murphy v. Hancock**, 2011 NSSC 197. In that case, the parties were in a shared-parenting relationship. It included mid-week transitions which the parties agreed to drop during the school year. The Applicant sought to reduce the Respondent's parenting time leaving primary care with her. Justice O'Neil concluded that a shared-parenting arrangement was workable and in the children's best interests. In arriving at his decision, Justice O'Neil referred to numerous factors - twelve (12) in total at paragraph 50.

[44] The Applicant, in his submissions, referred to a number of these factors as being relevant in the present case. He submits that a shared-parenting relationship can reduce conflict where one parent assumes a position of power, alleged here to be Ms. Brown. Further, while there may be trouble communicating, he says the parties are able to communicate if they have to.

PROXIMITY AND AVAILABILITY

[45] The first factor is proximity and availability. In this respect, the two (2) homes are very close and both parents are available to step in (as well as Mr. Leblanc's spouse, if needed) to assist the children. The Respondent questions Mr. LeBlanc's availability, but I accept his evidence that his children come first and would be placed ahead of his other activities. Both parties agree no one is planning to leave the community.

TRANSITIONS

[46] The Applicant submits that a week on/week off schedule will reduce transition times to twice a week. Packing up and moving can be distracting, although the evidence on this point was not prominent. Mr. LeBlanc reported that A. said it would "be easier" if it (the shared parenting) was weekly. Given their busy schedules with school, less moving would appear advantageous for the children. Both homes, however, are in the same school area and community which, in my view, would minimize any distraction for the children. I will return to this subject later in my decision.

OPPORTUNITY TO BE INVOLVED IN DECISIONS AND THE SHARED BURDEN OF PARENTING

[47] A week on/week off would relieve some burden from Ms. Brown and weaken any perceived position of power she has. As far as Mr. LeBlanc having a greater role in the decision making, I am satisfied on the evidence, that the current custody order gives him that right and responsibility, subject to his willingness to contact and obtain necessary information from various authorities.

[48] I accept Ms. Brown's evidence that Mr. LeBlanc was made aware of significant events. Mr. LeBlanc is entitled, as well, to J.'s backpack, for example, which he says has been denied.

PRINCIPLE OF MAXIMUM CONTACT WITH EACH PARENT

[49] Extended time with Mr. LeBlanc would provide maximum contact for the children with both parents. Another factor, however, would be some need for Ms. Brown to have mid-week contact in the week on/week off arrangement. Mr.

LeBlanc says this could be facilitated by phone and/or face-to-face time with Ms. Brown during the week he has the children.

[50] The current schedule allows for quite a bit of contact. At present, Mr. LeBlanc speaks to the children each night by phone before they go to bed. The Respondent, Ms. Brown, says that this aspect, in a week on/week off arrangement, would be difficult when the children have always resided primarily with her as their mother. I concur.

[51] I have discussed the different parenting styles to some extent. As was stated in **Murphy,** there is value to the children in learning different approaches. The real question in my view is to what extent the shared-parenting arrangement proposed will lessen the conflict and thus any negative effects on the children. I agree (that outwardly) these children are doing well under the present arrangement.

[52] The Applicant has cited **Malbeuf v. Malbeuf**, 2012 NSSC 168, as authority for shared parenting being in the children's best interests, despite the problems with communication and cooperation between the parents. I accept that Mr. LeBlanc is careful not to speak negatively of the children's mother. In **Malbeuf** the arrangement ultimately ordered by the court was similar to the parenting time which Mr. LeBlanc now receives. As well, evidence was given in that case as to the care responsibilities prior to separation. There has been little or no evidence of that given here.

DECISION

[53] Having considered the evidence and having weighed the factors in **Murphy** that I should consider and the individual facts of the case, I am not satisfied that the shared-parenting arrangement proposed by Mr. LeBlanc, that being a week on/week off arrangement, is in the best interests of the children at this time.

[54] My reasons, which are several, are as follows:

1. I am not satisfied on the evidence that such an arrangement would necessarily improve communication or the supply of information;

2. The children are entering critical times in their lives. I find their wishes can be addressed without a wholesale change from the current arrangement.

3. While a 50/50 arrangement would lessen transitions, it would undoubtedly involve more communication, something which has not worked well.

4. The children are doing well in all respects: school, extra-curricular activities, friends and importantly with each other. It cannot be presumed that because they are doing well outwardly they are not doing well inwardly. The evidence lends some insight into this as evidence by their wishes to see more of their dad.

5. In terms of certain problems, it is inevitable with teenagers that issues of shampoo, underwear, acne pads, etc. will arise within two (2) households. These things are not indicative of a power struggle.

6. I do think that the Tantallon hockey incident and the sneaker incident are more indicative of a power struggle between the parents. With proper direction, however, such a struggle can be corrected with the current order.

7. As the saying goes, it is not the quantity of the time but the quality of the time. If Mr. LeBlanc has available time he should be able to use that to spend it with his children. It is not open to Ms. Brown to interpret the order. That is not permissible.

8. Parenting time can be increased to Mr. LeBlanc without it being a 50/50 arrangement.

[55] I conclude my reasons by referring to paragraph 70 of **Murphy v. Hancock**, supra, where the court spoke of the value of mid-week parenting where it states in part:

> ... The children will be living near each parent. It is in their best interests that their opportunity to share the experiences of the week with both parents be *timely.* Mid-week access is an enhanced opportunity for the children to receive the love of the other parent and for the children to love that parent back. ...

[56] The present order provides for mid-week access for Mr. LeBlanc. In my view, to attempt to now initiate mid-week access for each parent during the off week, on a week on/week off rotation, is indeed a venture into the unknown. With the children presently doing well, it is a risk that may not prove to be in their best interests. Therefore, while I have found there to be a material change in circumstances, I find that the arrangement proposed by Mr. LeBlanc is not in the childrens' best interests.

[57] That said, I find, however, that Mr. LeBlanc should receive some additional parenting time with his children, which I propose will occur in the following ways, which are to be written into the terms of the order:

> 1. Mr. LeBlanc, if he is available, may pick up the children before 3:30 p.m. and/or as soon as practicable after school. Notice of his intent shall be given to Ms. Brown in writing by e-mail preferably 48 hours in advance but, in any event, no later than 24 hours in advance of the pick-up time.
>
> 2. Mr. LeBlanc, should he choose to do so, may extend the Thursday parenting in the off week to overnight, returning the children to school or daycare Friday morning in the same manner as does occur on the Wednesday (access) of each week as the order otherwise provides.
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> 3. The parties will each alternate the primary parenting on the children's birthdays from year-to-year beginning in 2014 when Ms. Brown will "go first". In 2015 Mr. LeBlanc will have the primary parenting time on the children's birthday. This is subject to the expectation that the other parent will have at least some brief access during each birthday by visitation or phone and then to be followed by their own birthday activity during their own parenting time, if that is their choice.
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> 4. Mr. LeBlanc, under clause 2(a) shall, during the school year, return the children to their mother's home by 7:00 p.m. Monday as opposed to Sunday if there is no school on the following Monday, whether or not the Monday is a holiday. In the summer months, Mr. LeBlanc shall return the children under clause 2(a) by 7:00 p.m. on the following Monday (and not Sunday) if the following Monday is a holiday. For greater clarity, during the school year if there is no school on Monday, regardless of whether there is a

holiday or not, the children will be returned on Monday. During the summer months, the children will be returned on Monday (only) if the Monday is a holiday. If not, they will be returned on Sunday as is presently stated in the order at 8:00 p.m.

5. No set-off will be awarded in respect of child support based on the *Tables* (FCSG).

6. Except for the Thursday overnight, the remaining parenting time is arguably (already) provided by the terms of the existing order. Having regard to the level of Ms. Brown's income and the fact that any set-off would be negligible in any event, there will be no adjustment in the amount payable in child support.

[58] In other respects, the remaining terms of the corollary relief judgment shall remain in full force and effect. As well, I will impose the terms of the interim order as applicable.

[59] Vacations shall remain as they currently are arranged.

CONCLUSION

[60] (1) I am satisfied that Mr. LeBlanc has met the burden of establishing a material change in circumstances since the 2009 order due to:

i) The degree of conflict;

ii) The changing needs of the children, which include a need to spend more time with their father.

(2) I am not satisfied that the week on/week off parenting arrangement proposed by Mr. LeBlanc is in the children's best interests in that the children are currently doing well. A significant change may not improve the conflict.

[61] I am satisfied the better approach is to clarify the terms of the order and to provide some additional parenting time to Mr. LeBlanc.

[62] In terms of costs, I am inclined to think that each party should bear their own costs of this application, but I will hear from counsel if they feel differently.

[63] This concludes my *Decision* and I would ask counsel to draft an appropriate order.

[64] Order accordingly.

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Murray, J.