IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Campbell v. Campbell, 2005 NSSC 184

Date: 20050629
Docket: SKD 032008
Registry: Kentville

Between:

Jacqueline Nicole Campbell

Petitioner

v.

Jeffrey Victor Campbell

Respondent

Judge:	The Honourable Justice Arthur J. LeBlanc
Heard:	February 28, 2005, in Kentville, Nova Scotia
Counsel:	R. Michael MacKenzie, for the Petitioner A. Brunt, for the Respondent

By the Court:

[1] The petitioner, Mrs. Campbell, seeks a divorce and an order for child support, including retroactive child support. All other issues were resolved in a separation agreement dated June 20, 2003. The parties divided the matrimonial property to their mutual satisfaction and agreed that no spousal support is payable.

[2] The parties married on October 7, 1995 and separated on April 1, 2003. They have not resumed cohabitation. I find that there is no possibility of reconciliation. The jurisdictional requirements have been met and I grant a divorce under section 8(2)(a) of the *Divorce Act*.

[3] There are two children of the marriage: Kiersten Taylor Campbell, born November 13, 1996 and Tanner Chase Campbell born July 28, 2000.

[4] Mrs. Campbell was employed for seven years earning minimum wage. In 2003 she began work with Atlantic Funeral Homes Limited. She worked with this company for three months. Due to stress her family doctor put her off work and recommended that she return to school for further training. She enrolled in a paralegal course, which she expects to finish in October 2005. She said the federal government is covering the cost of the paralegal course. According to her Statement of Financial Information, Mrs. Campbell receives EI of $384.00 per month. She also receives Child Tax Benefit of $460.00 per month and a GST rebate of $57.00 per month. She said the child tax credit is subject to adjustment depending on her income. She receives a total of $901.00 monthly, for an annual gross of $10,812.00. She expects to find employment locally, and says there is an

85% placement rate from the paralegal course. She expects this to bring a substantial increase over her previous permanent income.

[5] Mr. Campbell works in the construction industry for ten months each year. He receives employment insurance benefits for approximately two months. Over the last several years he has worked full-time for the same company. His gross monthly salary, averaged to account for EI, is $3,458.33, according to his Statement of Financial Information. According to his evidence, his current employment is of indefinite duration.

[6] At the time of the separation, Mr. Campbell agreed to pay child support of $530.00 per month. However, in late December 2003, he advised Mrs. Campbell and that he wanted the children with him 50% of the time and that he would no longer pay child support, although the petitioner says he stopped paying around September 2004. Mrs. Campbell said she accepted his decision and did not take any steps to enforce the payment of child support. Mrs. Campbell states that when this occurred, Mr. Campbell was living with his parents. She, too, was living with her parents. Mr. Campbell rented a one-bedroom apartment near her home. He

later moved to a two-bedroom apartment so that he did not have to sleep on the sofa when the children were in his care.

[7] Mrs. Campbell says she is unable to work part-time while going to school and taking care of the children. She said she chose to work at Atlantic Funeral Homes in order to increase her salary. However, she said, she did not realize the stress she would be under while working in the funeral home and taking care of the children.

[8] Mrs. Campbell did not pay her family members for taking care of children. She claims that she does not qualify for a student loan, as the she made an assignment in bankruptcy, thereby avoiding payment of her first student loan.

[9] Mrs. Campbell is in a common-law relationship. Her partner pays one half of the household cost and she covers the entire cost of her children. Her statement of financial information shows expenses she shares with her partner on a 50/50 basis and details the expenditures she incurs for the children. Apart from food and lodging, heat, electricity, telephone and cable, these expenses are met entirely with her own funds. Her Statement sets out the following monthly expenses:

Rent/mortgage	$250.00
Heat	$100.00
Electricity	$100.00
Telephone/postage	$25.00
Cable	$40.00
Food	$200.00
Toiletries/household supplies	$30.00
Clothing	$100.00
Gas (travel expense)	$100.00
School Supplies, Tuition, Books	$15.00
Children's Allowances and Activities	$30.00
Hair and Grooming	$25.00
Christmas, Birthdays, Events & Gifts	$60.00
Holidays	$50.00
Entertainment	$30.00
Savings	$50.00
TOTAL EXPENSES	$1,205.00

[10] Mr. Campbell states that the children spend 50% of their time with him. Immediately following separation, the children were spending a significant portion of their time with Mrs. Campbell, her mother and her grandmother. Circumstances change in December 2003. Mrs. Campbell was spending a significant part of her time in Halifax–Dartmouth and the children were with their grandmother and great-grandmother during the day, and he took the children to his apartment at the end of the work day. In December 2003 he advised Mrs. Campbell that he intended to rent a two-bedroom apartment. He said this increased his rent by approximately $150 per month. He said he requested 50% of the child tax credit but Mrs. Campbell declined to split it. Mrs. Campbell agreed that the tax credit was not shared.

[11] Mr. Campbell said the children were not enrolled in any extracurricular activities. He said his work schedule, and the cost of such activities, precludes their participation. Mrs. Campbell stated that Mr. Campbell pays nursery school costs for their son, and paid for winter boots and school pictures.

[12] Since 2004, Mr. Campbell stated that he has the children with him every evening. He provides them with dinner. Mr. Campbell agreed that he always intended to move to a larger apartment, even before he decided to increase his parenting time.

[13] A review of Mr. Campbell's statement of financial information shows that he has a slight surplus and that his expenses are higher than Mrs. Campbell's. In addition to providing meals to his children, he spends money on toys and clothing and pays for two days of nursery school each week for the younger child. Mr. Campbell does not have a common-law partner with whom he can share expenses. He lists the following monthly expenses:

Rent/Mortgage	$555.00
Telephone. Postage, Cell Phone	$57.00
Cable	$50.00
Food	$450.00

Toiletries, Household Supplies	$10.00
Clothing	$40.00
Laundry and Dry Cleaning	$20.00
Motor Vehicle payment	$140.00
Gas	$300.00
Maintenance/Repair	$70.00
Insurance. License, registration Inspection	$130.00
Section 7 Child-Related Expenses:	
Child Care Expense (Tanner's Nursery School)	$85.00
Children's Allowances and Activities	$30.00
Hair, grooming	$20.00
Dental	$40.00
Christmas, Birthdays, Events & Gifts	$80.00
Entertainment	$20.00
TOTAL EXPENSES	$2,097.00

[14] Mr. Campbell also indicates that he makes debt payments of $270.00 per month, in addition to deductions from his income at source.

[15] While most of the parties' expenses bear comparison with one another, it is evident that Mrs. Campbell, through she only needs to meet half the costs of rent, electricity, etc., is nevertheless spending less than Mr. Campbell on a *pro rata* basis on these items. It must be noted, however, that Mr. Campbell earns significantly more, and, as such, he shows a small surplus while Mrs. Campbell has a monthly deficit of $304.00.

Positions on Child Support

[16] The parties agree that shared custody is best for the children. The children appear to be thriving in this arrangement. As to child support, Mrs. Campbell submits that Mr. Campbell should pay the *Child Support Guidelines* amount, based on an income of $41,500.00, which would be $530.00 per month. She argues that there should be no adjustment for benefits such as employment insurance, GST rebate and child tax credit. She proposes that any extraordinary expenses should be split, based on the parties' incomes, so that Mr. Campbell would pay 79% of these expenses and she would pay the remaining 21%.

[17] Mr. Campbell's position is that there should be no child support order. He claims that Mrs. Campbell enjoys a higher standard of living than his, by virtue of splitting her costs with her common law spouse. He alleges that the increased access he now exercises has forced him to incur the cost of a larger apartment. He says the overall benefit to the children demands that he be left with sufficient funds with which to provide them with a comfortable home. He points out that he continues to provide the children with health plan coverage. He claims that many of the expenses he now pays for the children would have to be curtailed or that he

would have to make adjustments to his living conditions. In particular, Mr. Campbell refers to his rent, which has gone up approximately $150 per month over the cost of the one-bedroom apartment. Furthermore, he says, the additional cost of food, clothing, school supplies and other items reflect incremental costs that he would not otherwise incur. He also alleges that Mrs. Campbell is unemployed but she should be working part time.

[18] Alternatively, Mr. Campbell requests a reduction in the *Guidelines* amount to $135.00, in order to account for his increased costs and his maintenance of the family health plan.

Findings of Fact

[19] Before determining whether Mr. Campbell should pay child support, in the *Guidelines* amount or otherwise, I make the following findings from the evidence:

a. Mrs. Campbell is not voluntarily unemployed. She was advised by her medical doctor to leave her position with Atlantic Funeral Homes Ltd. due to stress.

b. Mrs. Campbell is making efforts to return to the workforce by completing a paralegal course which will put her in a position to earn higher income than she did at her previous employment.

c. Mrs. Campbell is spending less on certain fixed-cost expenses than she would be if she was living alone with the children. She shares expenses with her common-law spouse. All of the expenditures in her statement of financial information appear reasonable. Certain expenses have been curtailed or modified to reflect her actual spending ability.

d. Mr. Campbell lives in a two bedroom apartment. He intended to move into a larger apartment before he decided to have the children with him more than 40% of the time.

e. Mr. Campbell unilaterally stopped paying child support of $530.00 per month without seeking court approval or applying for a variation.

f. Mr. Campbell is not married and does not have a common-law spouse.

g. Mrs. Campbell's common law spouse shares in the fixed expenses of the common household, including food and rent. There is no evidence of the income earned by the common law spouse.

h. Mrs. Campbell has access to a vehicle at moderate cost which is substantially less than the cost for Mr. Campbell to operate and maintain his vehicle.

ISSUES

[20] The issues are what, if any, amount of child support should Mr. Campbell pay and, if child support is ordered, should it be retroactive?

THE LAW

[21] Section 9 of the Federal *Child Support Guidelines* sets out the factors the Court must consider in determining whether child support should be paid, and in what amount, in a shared custody situation:

> **Shared Custody**
>
> **9.** Where a spouse exercises a right of access to, or has physical custody of, a child for not less than 40 per cent of the time over the course of a year, the amount of the child support order must be determined by taking into account
>
> (*a*) the amounts set out in the applicable tables for each of the spouses;
>
> (*b*) the increased costs of shared custody arrangements; and
>
> (*c*) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.

[22] The petitioner submits that the courts have traditionally taken one of two approaches in shared custody situations: (1) the differential is calculated pursuant to the *Guidelines* and is paid; or (2) the total *Guidelines* amount is paid by the higher wage earner to the lower wage earner parent. I will review several cases decided under s. 9 of the *Guidelines*. The petitioner has cited *Henneberry v Strowbridge* (2001), 194 N.S.R. (2d) 103 (S.C.). The respondent refers to *O'Regan v. O'Regan*, [2001] N.S.J. No. 219 (S.C.).

[23] In *Henneberry*, *supra*, Legere J. the father had a niece living with him who contributed to household expenses. The father had not claimed any increased costs associated with the shared custody arrangement, indicating that he was unaware of any increased costs. There was a large disparity in the parents' incomes; the mother was making just over $18,000.00 and the father was earning close to $40,000. Because the father was earning more than twice the amount the mother did, and was receiving a financial contribution in addition to his income, the court ordered the father to pay the full table amount.

[24] In *O'Regan, supra*, the parents had an equal parenting arrangement. The father was earning $40,700.00, while the mother was earning $21,800.00. The mother's common-law partner had an income of about $60,000.00, for a combined household income of at least $81,800.00. Goodfellow J. ordered the father to pay the differential between the *Guideline* amounts that would be payable by each spouse, less the cost of maintaining a family health plan.

[25] I have considered a number of other cases that I believe to be relevant to a consideration of these provisions of the *Divorce Act*, including *Slade v. Slade*, 2001 NFCA 2 (Nfld. C.A.); *Hill v. Hill*, [2003] N.S.J. No. 81 (C.A.); *Rowe v.*

Rowe, [2004] S.J. No. 820 (Sask. Q.B. – F.L.D.); *Green v. Green*, 2000 BCCA 310 (B.C.C.A.); *Contino v. Leonelli-Contino* (2003), 67 O.R. (3d) 703 (Ont. C.A.) (appeal heard and reserved, January 2005: [2003] S.C.C.A. No. 557); *E.(C.R.H.) v. E.(F.G.)* (2004) 1 R.F.L. (6th) 173 (B.C.C.A.); and *Reeves v. Reeves*, [2003] P.E.I.J. No. 50 (S.C.–T.D.).

[26] In *Slade*, *supra*, the trial judge had no evidence other than the parties' incomes. Being unable to make any analysis under ss. 9(b) or 9(c), the trial judge set off the two incomes, with an adjustment for baby-sitting costs incurred by the father. In the circumstances, where the trial judge had no other evidence – such as increased costs for exercising shared custody, or the standard of living comparison – this approach was approved by the Court of Appeal.

[27] In *Hill*, *supra*, there was a shared custody arrangement, but the trial judge ordered the full table amount payable by the father. At trial the father seemed to take the position that he was willing to pay the full table amount in order to have the greatest possible opportunity to participate in the lives of his children. Consequently, the court did not have to consider the factors set out in section 9.

[28] According to *Rowe v. Rowe*, *supra* at para. 9, there are two distinct approaches to section 9 of the *Guidelines*, as set out in *Contino*, *supra*, and *Green*, *supra*.

> In a recent decision by the British Columbia Court of Appeal *E.(C.R.H.) v. E.(F.G.)* ... dealing with the issue of shared custody, there is an annotation by Professor D.A. Rollie Thompson analyzing the pertinent decisions with reference to s. 9 of the Guidelines, and the contrasting approaches taken by the Ontario Court of Appeal in *Contino v. Leonelli-Contino* ... and by the British Columbia Court of Appeal in *Green v. Green*.... *Contino* advocates a fixed starting point, that of the straight set-off of Table amounts [s. 9(a)], then applying to it a percentage multiplier (the ratio of housing and other "fixed" expenses to total child expenses) to reflect the increased costs of shared custody [s. 9(b)], then looking a budgets and allocating "variable" children's expenses pro rata, according to the parent's incomes [s. 9(c)]. *Green* held that while formulas could be of assistance in applying s. 9, or in testing the results, no particular formula could be taken as definitive.

[29] In *Green*, *supra*, the Court stated:

> 34 It is apparent from a review of the decided cases that the courts have not succeeded in finding a s. 9 formula or formulas which can be applied in an equitable way in all cases. Section 9 is one of the provisions of the *Guidelines* which appears to recognize, particularly in ss. 9(b) and (c), that the myriad of fact patterns which come before the courts require some room for the exercise of judicial discretion. Discretion is built into the section. This is not to say that formulas cannot be of assistance in applying s. 9, or in testing the result, but only that a particular formula should not be regarded as definitive.
>
> 35 In order to apply s. 9 however, it is important that the parties lead evidence relating to ss. 9(b) and (c); that is, of "the increased costs of shared custody arrangements" and "the conditions, means, needs and other circumstances of each spouse [parent] and of any child for whom support is sought." This evidence has often been lacking, with the result that the courts have been forced either to

> make assumptions about increased costs, or to refuse the application under s. 9 for lack of an evidentiary foundation....

[30] In *E.(C.R.H.) v. E.(F.G.)*, *supra*, the British Columbia Court of Appeal approved these comments by the Chambers judge, at para. 30:

> Whatever formula, if any, a court may decide on following there appears to be four factors in the background that should guide a court's decision in calculating support in a shared custody scenario. The first factor to consider is the purpose behind variation of child support under s. 9. The assumption under s. 9 is that a shared custody situation will have increased overall costs for both parents as a result of duplication. As a result, paying the base Guidelines amount would be unfair. The second factor to bear in mind is the "cliff effect" as discussed in *Green, supra*. The cliff effect is the sudden drop in income of the custodial parent as the access parent crosses the threshold between 39 percent and 40 percent access. Thirdly, there is the view that variation is more readily justified if the access parent has less means than the custodial parent and would have difficulty in meeting increased expenses occasioned by greater access. Finally, as Prowse J.A. reminds us in *Green, supra*, the court must not give undue weight to s. 9(a) without giving sufficient consideration to ss. 9(b) and (c).

[31] Affirming the judge's decision to apply a "pro-rate" formula whereby the father paid 60 per cent of the Guidelines amount to reflect the fact that he had access about 40 per cent of the time (para. 31), the Court commented:

> 34 As this Court stated in *Green*, the determination of an appropriate award of child support under s. 9 is one of the few places in the *Guidelines* which permits some discretion on the part of Masters and trial judges having regard to the factors set forth in ss. 9(a), (b) and (c). There is some flexibility in tailoring an order to the particular circumstances of the case. In that regard, it is important to emphasize that the *Green* decision does not stand for the proposition that there are only three or four legitimate

> approaches or formulae which may be applied in fixing child support under s. 9, and that it is simply a matter of the decision-maker choosing the one he or she deems appropriate. The formulae described in *Green* were designed to assist decision-makers by providing a number of options in approaching their task under s. 9; they were not intended to be definitive or exhaustive.

[32] In *Contino*, *supra*, the Ontario Court of Appeal set out a three-step approach to a section 9 analysis. The starting point is a set off of the table amounts. The second step, under section 9(b), is to use a multiplier to reflect the increased costs associated with the shared custody arrangement, reflecting the ratio of housing and other fixed expenses to the total child expenses. Finally, under section 9(c), the court determines the actual spending patterns, looking at the budgets of each family and allocating variable expenses according to the parents' incomes (paras. 86-88). In an annotation to *E.(C.R.H.)*, *supra*, (see 1 R.F.L. (6th) at pp. 174-181), Professor Thompson suggests that using a multiplier may result in expenses being double-counted. Additionally, there may be reluctance to use a multiplier in determining costs under s. 9(b), particularly where there is little evidence of increased expenses of shared custody.

[33] In line with the approach suggested by Professor Thompson, the court in *Reeves*, *supra*, rejected the Ontario approach. The wife had income of around

$11,000.00 and husband had income of close to $25,000.00. The parents shared time with the child equally. Jenkins J. considered the incomes of the parents, and went on to consider the other factors in s. 9, at para. 15:

> In all the circumstances, I determine the amount of basic child support payable by the father to the mother for the child Joey should be $250 per month. The first point of reference is that the difference between each parent's table amount is $191. This amount represents a straight set-off. Upon taking into account the considerations in clauses 9(b) and ©), this amount would pass as an acceptable result in this case. However, leaving the determination there might not adequately take into account under 9©) the mother's low income and the relatively low standard of living and the associated limitations she and Joey would experience regarding Joey's most basic needs. Consistent with the objectives and theme of the Guidelines, there is in this case some limited opportunity to recognize this factor, in balance with the father's increased cost of participating in shared custody, and the obligation of both parents to contribute toward child support based on their means. On that basis, I would exercise my discretion to fix the amount at $250 per month. This determination takes into account all three criteria listed in s.9. Beyond the particular mentioned, accounting for clauses (b) and ©) does not otherwise suggest a higher or lower amount in this case. This determination recognizes two incidents of shared parenting: one, that the costs of the paying parent are increased when the child is in his care approximately half the time; and two, that the costs of the receiving parent are reduced when the child is in her care only half of the time. It involves both parents in the joint financial obligation to maintain the child in accordance with their relative abilities to contribute to performance of that obligation.

[34] If the approach suggested by Professor Thompson and recognized by Justice Jenkins is appropriate, a straight set off may not be appropriate. Mrs. Campbell’s income is substantially lower than Mr. Campbell’s.

[35] This has to be balanced against Mr. Campbell's increased costs of the shared custody arrangement, particularly the cost of his larger apartment. With respect, I do not accept the argument that because he intended to have a larger apartment before the shared custody arrangement was in place, this extra cost should not be considered. Although he had intended to move from a one- to a two-bedroom apartment before he decided to exercise parenting up to 50% of the time, he satisfactorily explained that he needed a two bedroom apartment because he found it difficult to sleep on the sofa while the children slept in his bedroom. I also have to take into account the fact that Ms. Campbell is living in a common-law relationship. Despite the fact that I do not know her partner's income, he contributes to the fixed costs associated with her accommodation. This contribution has an impact on her standard of living.

[36] In considering the factors set out in s. 9(a), I have to determine whether it is appropriate to consider the child tax credit as an item in the table amounts for Mrs. Campbell. Professor Thompson excludes the child tax credit from this consideration, although the amount would be included in the means, needs and

other circumstances of the parties under s.9(c). I agree. While it is necessary to include the credit in the analysis under s. 9(c), it is inappropriate to include it in a review of the table amounts under s.9(a). The table amounts are determined under ss. 17 to 20 of the *Guidelines*. These provisions make it clear that child tax credit payments are not to be included in determining the table amount.

[37] As to s. 9(c), there is a substantial discrepancy between the parties' incomes. The needs of the children are, by any consideration, equal whichever parent they are with. Mrs. Campbell clearly has less income than Mr. Campbell. His fixed costs may be greater, but she only has $10,000 to meet her fixed and variable costs. A portion of her expenses are met by her common law partner but in effect she is able to reduce some of her costs by $750 approximately each month. If she were living alone, her fixed costs would be higher. On a comparative living expenses and means basis, Ms. Campbell has a lower standard of living than does Mr. Campbell.

[38] In view of the considerations under s.9 of the *Guidelines*, I direct Mr. Campbell to pay child support of $375.00 monthly, commencing April 1, 2005.

The payments shall be due at the end of each month to the Maintenance Enforcement Program.

RETROACTIVE CHILD SUPPORT

[39] In *Rafuse v. Conrad*, [2002] N.S.J. No. 208 (C.A.) the Court referred to the considerations that are relevant in determining whether retroactive child support should be ordered. Roscoe J.A. referred to *L.S. v. E.P.* (1999), 50 R.F.L. (4th) 302 (B.C.C.A.) (leave to appeal to S.C.C. dismissed, [1999] S.C.C.A. No. 444), where Rowles J.A. discussed the discretion to award retroactive maintenance, both for periods preceding judgment and preceding the commencement of the proceedings. Roscoe J.A. wrote:

> 18 Based on the jurisprudence reviewed, Justice Rowles enumerates the policy concerns relating to the discretion to award retroactive maintenance, and includes a discussion of and authority for each of the following:
>
> (I) equal treatment under the *Divorce Act* and *Family Relations Act*;
>
> (ii) presumption that a previous court order is to be respected;
>
> (iii) presumption against retroactive effect;
>
> (iv) child maintenance is a right of the child, not of the parent;
>
> (v) parents are jointly responsible for child support; and

(vi) encourage negotiated settlement.

19 Following discussion of the policy considerations, Justice Rowles examines the factors that govern the discretion to award retroactive maintenance, summarizing at para 66:

> para 66 A review of the case law reveals that there are a number of factors which have been regarded as significant in determining whether to order or not to order retroactive child maintenance. Factors militating in favour of ordering retroactive maintenance include: (1) the need on the part of the child and a corresponding ability to pay on the part of the non-custodial parent; (2) some blameworthy conduct on the part of the non-custodial parent such as incomplete or misleading financial disclosure at the time of the original order; (3) necessity on the part of the custodial parent to encroach on his or her capital or incur debt to meet child rearing expenses; (4) an excuse for a delay in bringing the application where the delay is significant; and (5) notice to the non-custodial parent of an intention to pursue maintenance followed by negotiations to that end.
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> para 67 Factors which have militated against ordering retroactive maintenance include: (1) the order would cause an unreasonable or unfair burden to the non-custodial parent, especially to the extent that such a burden would interfere with ongoing support obligations; (2) the only purpose of the award would be to redistribute capital or award spousal support in the guise of child support; and (3) a significant, unexplained delay in bringing the application.

20 I agree with the analysis of Justice Rowles and would adopt the policy considerations and factors as listed in *L.S. v. E.P.* as relevant to the review of the exercise of discretion in this case....

21 I am satisfied that the trial judge properly considered and weighed each of the possibly relevant factors, and given the paucity of the evidence drew permissible inferences where appropriate, in finding that:

- a retroactive order would benefit the child;

> - the appellant had an ability to pay towards a retroactive award;
> - there was no bad faith on behalf of the respondent;
> - the respondent must have subsidized the child support shortfall;
> - the appellant did not make any contribution outside the amount ordered; and,
> - the mother's relatively short delay in proceeding and the father's absence of financial disclosure ought not to adversely affect the child....

[40] The Petition for Divorce was filed on May 5, 2004. However, the parties had entered into a Separation Agreement on June 20, 2003, in which the respondent agreed to pay child support in the amount of $530.00 per month. There was no basis for Mr. Campbell to unilaterally terminate child support payments as he did in December 2003. He suggests that the effect of moving to shared custody left him with less money than before, but if so, it was incumbent on him to seek a variance of the child support payments in an appropriate manner. On the other hand, it was also incumbent on Mrs. Campbell to seek an order from the court directing Mr. Campbell to reinstitute the payments.

[41] I am not prepared to extend the period of retroactive payments past the date of the Petition for Divorce. I order that Mr. Campbell pay retroactive child support for the period beginning January 1, 2004. The retroactive portion for the period of

January 1, 2004 to December 31, 2004 shall be paid in monthly amounts of $150 until fully paid, commencing August 1, 2005.

CONCLUSION

[42] In the result, I order that Mr. Campbell pay child support of $375.00 per month commencing April 1, 2005. I also order that he pay arrears of child support of $150.00 per month, commencing August 1, 2005, until the arrears are fully paid. If the parties are unable to agree on the amount of arrears, they may make further submission to the Court. Mr. Campbell will remit all payments to the Maintenance Enforcement Program.

[43] In view of the mixed result of these proceedings, I exercise my discretion to order that the parties bear their own costs.

J.