

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: MacRae v. Hubley, 2010 NSSC 178

Date: 20100503

Docket: SFSNMEA-064723

Registry: Halifax

Between:

Laura MacRae

Applicant

v.

Mark Hubley

Respondent

LIBRARY HEADING

Judge: The Honourable Justice Leslie J. Dellapinna

Heard: April 6, 7, 8 and 16, 2010 in Halifax, Nova Scotia

Subject: Applications by two parents for custody of their two children pursuant to the *Maintenance and Custody Act* of Nova Scotia as well as an application by the children's mother for child maintenance.

Summary: The parties lived in a common-law relationship for approximately four years from February 2005 to April 2009. They have two children, a son age three at the time of the hearing and a daughter age two. The family lived in Tantallon.

After the parties separated the mother returned to her parents' home in Glace Bay (where she lived before cohabiting with the father) with the children. She applied for custody and child maintenance. The children's father countered with an application for custody. Both parties were prepared to resolve the matter based on a joint custody arrangement provided the Court favored them with an order for primary care.

Issues: Custody, parenting time by the "non custodial" parent and child maintenance.

Result:

Joint custody was ordered with primary care granted to the mother. It would be disruptive to separate the children from either of their parents but they had settled in well with their mother in Glace Bay. During their lives she had been the primary parent - staying home with them much of the time while the father worked. The mother had a support system in place in Glace Bay anchored by her parents. She was able to secure a job in the daycare that her daughter attended and where their son attended when he was not attending pre-school.

While both parents were capable of parenting the children there was insufficient reason to disrupt the children again by removing them from the care of their mother and placing them in the care of their father. He had moved on to a new relationship and his girlfriend and her two children had now moved into his home. If the children were placed with their father much of the time they would be placed with a person other than a parent for their care.

The father was granted parenting time on alternate weekends (Thursday to Sunday) and extra time over holidays, March break and the summer.

The father was ordered to pay child maintenance pursuant to the *Child Maintenance Guidelines*.

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