

NOVA SCOTIA COURT OF APPEAL
Citation: *Phinney v. Phinney*, 2002 NSCA 168

Date: 20021231
Docket: CA 183106
Registry: Halifax

Between:

Elizabeth D. Phinney

Appellant

v.

Carl S. Phinney

Respondent

JUDGE: Bateman, J.A.

APPEAL HEARD: December 9, 2002

JUDGMENT DELIVERED: December 31, 2002

SUBJECT: Variation of spousal support

SUMMARY: Parties divorced in November 2000. Former husband applied for a “review” of spousal support. At time of divorce the trial judge authorized a review before the end of 2001. Former husband was seeking termination of support over a short time frame. Former wife had commenced retraining program during last year of marriage, but had been unable to find related employment. She sought additional time to find work in her field. Children were ages 7 and 8 at the time of the review hearing. Mother had effectively sole custody, with father choosing to exercise minimal access. Reviewing judge ordered abrupt reduction in spousal

support leading to eventual termination. Mother appealed.

ISSUES: Principle issue was the time frame for the reduction of spousal support. Mother sought additional time to gain employment.

RESULT: Appeal allowed. Taking into account the circumstances of the marriage and the fact that the mother's continuing responsibility for the care of the children limited her ability to obtain alternative employment, time frame for the reduction of maintenance extended.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 16 pages.