

FAMILY COURT OF NOVA SCOTIA

Citation: *SO v. TO*, 2023 NSFC 3

Date: 20230215

Docket: SFTPSA-124261

Registry: Truro

Between:

SO

Applicant

-and-

TO

Respondent

DECISION

Judge: The Honourable Judge Timothy G. Daley

Heard: August 17, 2022

Written Decision: February 15, 2023

Counsel: SO, Self-Represented

Ashley Dutcher for the respondent, SO

Introduction

[1] This decision concerns a child, JTO, who is now 12 years old, and what is in his best interests. Specifically, his mother, TO requests that the court permit her to relocate JTO with her to Beresford, New Brunswick, and to order that the father, SO, have a schedule of parenting time different from that which he and JTO enjoyed prior to this application. The mother also seeks child support from the date of separation as well as proportionate sharing of section 7 expenses.

[2] The father, SO, requests that the Court deny the application for relocation and grant an order that there be a shared parenting arrangement between the parents for the child going forward.

[3] Throughout the proceedings the father has been self representing and the mother has been represented by counsel.

Summary of Positions

[4] The father says that he and the child have a close relationship. His parenting schedule in Nova Scotia has been every second weekend as well as Monday, Tuesday, Thursday and Friday from 2:40 PM to 5:00 PM and on Wednesdays until 7:20 PM.

[5] The father describes a close relationship with his son with them participating in many activities together and taking his son to activities and such as kung fu, tai kwon do and handball lessons.

[6] The father says that the change proposed by the mother will severely damage his relationship with the child because of the distance between Beresford and his residence in the Truro area. He says the travel time one way would be approximately five hours, though the mother says it would be approximately four hours. This would mean that his weekends with the child would be very limited, largely taken up with travel time. It would also eliminate any evening visits during the week, which could not be compensated by extensive time over the summer, Christmas or other occasions through the year.

[7] The mother says that she is from Beresford, New Brunswick, and only

moved to Nova Scotia at the request of the father. She has extensive family in New Brunswick that she says have already formed a connection with the child which would be enhanced by returning to her hometown. She believes that this would benefit the child greatly and assist her in caring for the child because of the interaction with family and support in caring for the child.

[8] Both parents agree the child has been diagnosed with ADHD, dyslexia and learning disabilities and requires special assistance in school. The child is bilingual and attends a French language school in Nova Scotia. The mother says that the child can receive better schooling and assistance in New Brunswick.

Summary of Evidence

[9] The parents commenced their relationship in New Brunswick in 2008. At the beginning of the relationship the father lived in Nova Scotia and the mother in New Brunswick until she relocated to Nova Scotia in January 2009, and they began living together.

[10] They were married on August 29, 2009. The mother says that they separated in January 2021, but it was not until approximately July 1, 2021, that the father moved from the matrimonial home in Camden, Nova Scotia to a rental property they own in Truro, Nova Scotia.

[11] Since separation, the child has been in the mother's primary care, subject to the above-noted schedule for the father of every second weekend and evenings each weekday.

[12] The father provided direct evidence contained in two affidavits. The first affidavit was in support of an emergency application to prevent the relocation. The court allowed time for the mother to file her own affidavit in response and granted an interim order that the child remain in Nova Scotia pending completion of this hearing and decision.

[13] In the first affidavit, among other things, the father alleged that the mother "went off her anxiety/bipolar meds," suggesting that she suffered from either anxiety or bipolar disorder. He alleged that he was not told that she had come off these medications and she only "confessed" this some months later when he observed her to be unstable.

[14] On this issue, the mother is clear that she does not suffer from bipolar

disorder and has never been so diagnosed. She does say that she suffers anxiety, had received medication, and had discontinued that medication in consultation with her family doctor. She now takes the medication again to assist in dealing with the current circumstance before the court.

[15] The evidence which I accept is that the mother arranges appointments and additional supports for the child when required, particularly when working with the school. She also takes the child to most of his medical appointments. The father takes the child to his dental appointments and some medical appointments.

[16] The mother says that she has primarily been responsible for taking the child to activities including movies, ski hills, play dates, and other such activities, and the father rarely joined in those outings over the years.

[17] The father says that he spends time with the child each evening through the week, including taking him to kung fu, tae kwon do and handball lessons. The father also says that he and the child always look forward to camping season together, and that he cooks for the child when he is with the father. He describes going for walks in the woods with the child, visiting his grandparents, working in a woodpile, camping, biking, four-wheeling and even helping build a cabin in the woods.

[18] What is clear from this evidence is the child is well cared for and deeply loved by both parents. There is no evidence to suggest that the child is neglected in any way. The father has suggested that the child sleeps with the mother too much, but the mother has already dealt with that issue, and I am satisfied that the child is cared for appropriately in both homes. I find the mother does have more time with the child and is primarily responsible for much of the management of supports and appointments for him, but the father does participate. I am also satisfied that a significant number of activities are engaged in by both parents with the child.

[19] The core issue is relocation. It is the mother's evidence that she has no family in Nova Scotia. She was born and raised in Beresford, New Brunswick, and it is there that her immediate and extended family live. By relocating with the child to Beresford, she says that both she and the child will have extensive benefit from contact with and support from her immediate and extended family. Her mother, for example, provided evidence by affidavit confirming that she is a retired schoolteacher and able to assist in childcare as well as homework. The maternal grandfather is also retired and available to support similarly.

[20] The grandmother's evidence confirms that she and her husband live about a 3-to-5-minute walk from the school where the child would attend if relocation is permitted. They would therefore be available for afterschool childcare, sick days, snow days, PDAs, and other necessities.

[21] The maternal grandmother also confirms that she and her husband own two duplexes in that same community and are prepared to free up one unit for her daughter and grandchild to live in on a short-term or long-term basis for a very modest rental cost.

[22] She also confirms that she and the grandfather have a very close relationship with the child, including time each summer for at least a week since he was very young. She also confirms that the child's aunt takes time from work when the child is visiting in order to join in activities and spend time with him.

[23] The mother says that, in addition to her parents, she has a sister and brother in Beresford and extended family. For example, her father is one of nine children and seven of his siblings and many of their children and families continue to reside in that community. She has numerous aunts, uncles, and cousins there and the family is very tightknit, regularly gathering and are supportive of one another.

[24] As well, the mother says she has many close friends who reside in that community with their own families, some of which have children of similar age to the child and who already know one another. Activities with those family and friends including swimming, beach trips, and coasting or sledding. She says the child is close with his cousins and has formed friendships in the grandparents' neighbourhood over the years.

[25] The father does not challenge any of this evidence. He does note that the change in location would affect the child's relationship with his friends and paternal grandparents. The mother's evidence is that he has virtually no relationship with relatives on the father side. There is no affidavit evidence from anyone in the father's family to support his position of a relationship with the child.

[26] The father does not provide any information respecting who his friends are, what activities they participate in, or any other details of those circumstances.

[27] The court also has benefit of a Voice of Child Report in which the child indicates no preference for remaining in Nova Scotia or moving to New Brunswick. It is clear from the report that he perceives that he has a good

relationship with each parent and does not want to be caught in the middle of this dispute.

[28] He speaks fondly of his mother and their relationship including activities engaged in both in New Brunswick and Nova Scotia. He likewise speaks fondly of his father, their activities, and relationship.

[29] It is clear from the report that he does not want to provide an indication of his preference for fear of disappointing or upsetting either parent. He insightfully notes that a move to New Brunswick would allow him to see cousins every day and would see more family than he does now, but a negative would be that he would not see his dad much and will lose out on the fun things they do together except on weekends and summer breaks.

The Law

[30] The governing legislation in the circumstances is the *Parenting and Support Act*. The Act makes clear that the best interests of the child is the paramount consideration in all matters as set out in section 18 (5) as follows.

In any proceeding under this Act concerning decision-making responsibility, parenting arrangements, parenting time, contact time or interaction in relation to a child, the court shall give paramount consideration to the best interests of the child.

[31] Section 18 (6) sets out the factors to be considered by the court in determining the child's best interests , but it is clear that this is not a closed list, and the court may consider other factors that it deems appropriate. I will only refer to those factors that are relevant in this circumstance.

[32] Before doing so, I must also consider the provisions of the Act dealing with relocation. These considerations are found in section 18E and, without reviewing each and every provision, I am satisfied that the request to relocate by the mother meets the test for consideration of this matter as a relocation as it "can reasonably be expected to significantly impact the child's relationship with a parent..." The authority to grant or prohibit a relocation is found in section 18G.

[33] The first step in determining whether a relocation request should be granted or not is to determine who bears the burden of proof. The test for that is contained in section 18H as follows.

(1) When a proposed relocation of a child is before the court, the court shall give paramount consideration to the best interests of the child.

(1A) The burden of proof under subsection (1) is allocated as follows:

(a) where there is a court order or an agreement that provides that the child spend substantially equal time in the care of each party, the party who intends to relocate the child has the burden of proving that the relocation would be in the best interests of the child, unless the other party is not in substantial compliance with the order or agreement, in which case clause (e) applies;

(b) where there is a court order or an agreement that provides that the child spend the vast majority of the child's time in the care of the party who intends to relocate the child, the party opposing the relocation has the burden of proving that the relocation would not be in the best interests of the child, unless the party who intends to relocate the child is not in substantial compliance with the order or agreement, in which case clause (e) applies;

(c) where there is no order or agreement as referred to in clause (a) or (b) but there is an informal or tacit arrangement between the parties in relation to the care of the child establishing a pattern of care in which the child spends substantially equal time in the care of each party, the party who intends to relocate the child has the burden of proving that the relocation would be in the best interests of the child;

(d) where there is no order or agreement as referred to in clause (a) or (b) but there is an informal or tacit arrangement between the parties in relation to the care of the child establishing a pattern of care in which the child spends the vast majority of the child's time in the care of the party who intends to relocate the child, the party opposing the relocation has the burden of proving that the relocation would not be in the best interests of the child;

(e) for situations other than those set out in clauses (a) to (d), all parties to the application have the burden of showing what is in the best interests of the child.

[34] When considering these factors, I first note there is no existing court order or agreement, prior to the interim order granted by this court on application by the father, setting out the parenting arrangements. Therefore subsections (a) and (b) are inapplicable.

[35] In assessing the evidence before me, and considering the remaining subsections, I conclude that there was an informal or tacit agreement between the parents in relation to the care of this child, but it did not include the child spending substantially equal time in the care of each party. The evidence is that the child spent every second weekend with the father, and each evening through the week

for 2 to 4 hours. The remainder of the time is with the mother. Based on an assessment of the time spent, I cannot conclude that it is substantially equal between them.

[36] Similarly, I cannot conclude that the informal or tacit agreement of parenting between the parties amounted to the child spending the vast majority of his time in the care of either party. The father had significant parenting time with the child, and I find neither parent has established that the child spends the vast majority of his time in the care of either of them.

[37] As a result, I find that subsection (e) applies, and that each of the parents bears the burden of showing what is in the best interests of the child.

[38] I next turned to the best interest factors set out in section 18(6) and the additional factors required for consideration in a relocation case contained in section 18H(4)

The Child's Physical, Emotional, Social, And Educational Needs, Including The Child's Need For Stability And Safety

[39] I find that each parent has demonstrated a history of being able to meet the child's physical, emotional, social, and educational needs, including his needs for stability and safety. Though he has been diagnosed with ADHD, dyslexia and learning disabilities, the evidence makes clear that he is well cared for by his parents. I find it is the mother who has borne the primary responsibility to ensure that his educational needs are met, though I also accept that the father has participated in his education.

[40] I find it has been the mother who has ensured he attend his appointments, including special supports in Moncton, New Brunswick. I find she has borne the lion's share of those responsibilities.

[41] Since separation, the child has been in the primary care of his mother with frequent visits with the father each weekday and every second weekend and this appears to have been supportive of his various needs.

Each Parent's Willingness to Support The Development And Maintenance Of The Child's Relationship With The Other Parent

[42] The evidence is likewise clear that, despite the demise of their relationship,

the parents have been able to put the interests of their son first and have reached an informal agreement respecting his parenting arrangements. There is no evidence that the parents have in way attempted to sabotage or diminish the relationship with the other parent and, despite some concerns raised, I find there is nothing significant to ground a finding that there is any difficulty with their mutual support of the child's relationship with the other parent.

The History of Care of The Child

[43] In considering the history of care of this child, particularly considering his physical, emotional, social, and educational needs, I find the evidence clear that he has been in the primary care of his mother since separation, though the father has had significant time with him, as described earlier. The child has identified educational needs based upon his various diagnoses. The evidence is that he attends at a French school in Truro and has required additional supports over the years. I am satisfied that, based on her evidence, it is the mother who has arranged for the substantial majority of those supports including at a learning centre in Moncton in 2017. The mother's evidence is that, though general support for the child is available in Nova Scotia, resources for French supports are limited and would certainly be more available to him in New Brunswick given that it is an officially bilingual province with appropriate French schooling and support available there. The father does not contest this.

[44] The mother says that she has been the one to attend parent-teacher meetings and other meetings respecting the child. She does acknowledge the father attended these initially but over the last four years has not done so. The father does not dispute this in any significant way.

[45] The mother says that that the school proposed for the child to attend is likewise a French school equipped with linguistic support to advance the child's vocabulary. She is bi-lingual (though primarily Francophone), the father Anglophone, and the child is bilingual. The mother says that a relocation to New Brunswick would enhance his ability to communicate in both languages and provide appropriate supports given his various diagnoses and will be enhanced with his maternal grandmother's experience as a retired schoolteacher who can assist with his education.

Plans Proposed for The Child's Care and Upbringing

[46] When considering the plans proposed, these must be seen in the context of

the relocation proposal of the mother. That said, father's plan is simple. He believes the status quo will sufficiently address the needs of the child while maintaining a good and strong relationship with him. I Infer from his evidence that he believes the child is receiving sufficient supports, both in and out of school, to provide him with an appropriate upbringing.

[47] The mother's plan includes access to the support and relationships with immediate and extended family and friends already established in New Brunswick. The maternal grandparents already offered immediate support by way of housing, childcare and education support from the grandmother who is a retired teacher. The community to which they would relocate is primarily Francophone and there is an appropriate school available for the child to support his learning in French. He and his mother are already bilingual. There is evidence that the school proposed has appropriate supports for the diagnosed conditions and circumstances of the child.

[48] The mother plans, after renting from her parents for a time, to purchase a home in that community and has provided evidence of listings for properties that are quite modest in price.

[49] She has also been offered employment as a dental hygienist at a clinic in Beresford should relocation be permitted. This offer stands even though she does not have a specific date to begin unless relocation is granted. Her anticipated income is sufficient to permit her to live with the child comfortably in that community and her work hours will be 9 to 5 Monday to Thursday.

[50] She also has identified a family doctor who is willing to accept both her and the child into the practice and has provided written confirmation of same. His dental needs will be looked after at the dental clinic where the mother will work.

[51] The mother has identified a French tutoring centre in Bathurst, approximately 10 minutes away, who can assist the child if necessary. This is similar to the assistance provided when travelling to Moncton New Brunswick from Nova Scotia in the past.

The Child's Views and Preferences

[52] As noted earlier, there is a Voice of Child Report before the court in which the child expresses no definitive preference and notes the potential advantages to relocation of being closer to his mother's family and his friends there and the benefit of remaining in Nova Scotia in that he would maintain his good

relationship with his father. The child expresses no preference for either parent's proposal or any particular parenting arrangement. Put simply, he feels caught the middle does not want to disappoint her upset either parent.

The Nature of Strength and Stability of The Relationship Between The Child And Each Parent

[53] I will be brief on this factor. The evidence before me makes clear that this child has a very deep and loving relationship with each of his parents. There is no evidence before me that I find credible to suggest otherwise.

The Nature Strength and Stability of The Relationship Between The Child And Each Sibling, Grandparent Or Other Significant Person In The Child's Life

[54] It is here that there are significant differences in the evidence. I find that there is very little, if any, relationship between the child and his paternal relatives, other than his father. Moreover, there is no evidence before me from any of those relatives to support a finding of those relationships. There is also little to no evidence of any relationships formed by the child with friends in school or otherwise in Nova Scotia.

[55] On the other hand, I find that there is significant evidence of a strong relationship between the child and his immediate and extended family in New Brunswick. His paternal grandmother has provided direct evidence by affidavit of her and her husband's relationship and that of her children and cousins of the child and extended family and friends. It is clear that, when in New Brunswick, the child has good and healthy relationships with that side of his family which would benefit him as he grows. There is significant support and stability offered by the mother's parents in their offer to provide sitting services, educational support, as well as generous terms for living arrangements in one of their rental properties.

The Ability of Each Parent to Communicate and Cooperate on Issues Affecting the Child

[56] I find there is little evidence of the parents struggle with communication between them. There is some material respecting text communication and some allegations made by them, but none of these, in my view, amount to an indication that there is any fundamental problem in their communication. The history indicates that the mother has taken on the lion's share of the burden of dealing with

the child's learning and educational needs, but there appears to be no difficulty in their ability to communicate respecting the child's best interests.

[57] Turning now to the unique considerations on relocation contained in section 18H(4) I will consider each below.

The Reasons for Relocation

[58] The mother's evidence is clear on this issue. She seeks relocation in order to obtain better supports for herself and the child in her home community of Beresford, New Brunswick. She has already confirmed living arrangement through her parents which are suitable for her and the child. I am satisfied that the evidence confirms that she has supports in New Brunswick that she simply does not have in Nova Scotia. I am also satisfied that her belief that better support for the child's schooling is made out, and that there are better supports for French schooling in New Brunswick, particularly in light of the child's learning disabilities and other diagnoses. The direct and indirect support of family and friends there, as opposed to the dearth of same in Nova Scotia, is a significant consideration for the court.

The Effect on The Child of Changed Parenting Time Due to The Relocation

[59] This is the most significant consideration when considering the father's position seeking denial of the relocation request. I accept his evidence that he has had a significant relationship with his son throughout his life, and that he is a good and loving parent. He has spent time every weekday with his son as well as every second weekend. This amount of time is significant and any change to it, I find, would have an effect on the child. The child identifies this in the Voice of Child Report, noting that a relocation would affect that time with his father, and their activities together.

[60] I find that no matter what parenting arrangement were put in place if the relocation is permitted, it would not adequately substitute for the current parenting arrangement in terms of time available and would have an impact on the relationship between the father and son is granted.

The Effect of The Child's Removal from Family, School and Community Due to Relocation.

[61] As noted earlier, there is little to no evidence of the effect of the child's removal from Nova Scotia on his relationship with the paternal family other than

the father. There is little evidence of the child's school relationships, friendships, or otherwise, other than to discuss his French language training and challenges due to his various diagnoses.

[62] There is, however, evidence that the child is active in various activities, such as tae kwon do, handball and kung fu, which would be immediately impacted by a relocation. That said, I am comfortable in finding that similar activities can be engaged in New Brunswick. These activities have been supported by both parents in the past. I am satisfied that the mother's plan will allow for him to engage in similar, if not identical, activities in New Brunswick if relocation is granted.

The Appropriateness of Changing the Parenting Arrangements

[63] My findings are similar to those when considering the effect of change of parenting time. As noted earlier. I can only conclude that a relocation would have a deleterious impact on the relationship between the father and son, though it would not terminate or otherwise eliminate that relationship. The distance between the communities, argued to be between four and five hours one-way, is significant. This cannot be ignored. As the father notes, even if I were to order the parents to meet in the middle for the exchange of the child for parenting time, the father's time will be limited on weekends to one full day on Saturday. The cost to him would be significant for any such contact, given the cost of gas and the likely cost of some food for that travel to and from the exchange point.

[64] On the other hand, the mother proposes significant time with the father during the summer and during March break, Christmas and other occasions where possible. She also proposes the father have liberal telephone and videoconferencing interaction with the child.

[65] The father says that this relocation would significantly damage his relationship with his son. I accept it would have a significant impact. The question is whether, considering all of the factors, relocation is or is not in the child's best interests.

Any Additional Expenses That May Be Incurred and The Transportation Options Available If Relocation Is Granted

[66] I find there is no doubt that there will be additional expenses if relocation is granted. The live between four and five hours apart and either or both of them will incur significant transportation expenses. The only reasonable transportation

available is by vehicle. Even if the parties are ordered to meet at a central location between the two homes, the child will be in the car between 4 and 5 hours each way and this transportation time will limit the father's ability to engage meaningfully with the child.

[67] I am satisfied that there are no other factors relevant under section 18H(4) for the court to consider.

Analysis And Decision on Relocation

[68] When considering all the evidence before me and taking into account each of the factors required for consideration under the Parenting and Support Act, I find that it is in the child's best interest to authorize his relocation with the mother to New Brunswick as proposed.

[69] There is no one factor that dominates any other, but it is required that the court consider a full and blended analysis of all of the evidence in arriving at any determination regarding relocation or any other issue concerning the best interests of the child. In this matter, I find that, though the father and child have a good and strong relationship between them, there are significant advantages to the child on relocation to New Brunswick.

[70] The Supreme Court of Canada decision in *Barendregt v Grebliunas*, 2022 CC 22 has application to the assessment of the child's best interest by a court in a relocation case when the court held as follows:

In light of these refinements, the common law relocation framework can be restated as follows: courts must determine whether relocation is in the best interests of the child, having regard to the child's physical, emotional and psychological safety, security and well-being. This inquiry is highly fact-specific and discretionary, and the scope of appellate review is narrow. A court shall consider all factors related to the circumstances of the child, which may include the child's views and preferences, the history of caregiving, any incidents of family violence, or a child's cultural, linguistic, religious and spiritual upbringing and heritage. A court shall also consider each parent's willingness to support the development and maintenance of the child's relationship with the other parent, and give effect to the principle that a child should have as much time with each parent, as is consistent with the best interests of the child. How the outcome of an application would affect either parties' relocation plans should not be considered.

[71] The mother has a thorough and detailed plan for relocation which will provide her with employment, suitable housing, both immediate and in the future,

tutoring support and other supports for the child as necessary, family support for education, childcare and other needs and the benefit of those relationships going forward. She has arranged for a family doctor and dentist for her and the child. The child would attend a French school equipped with linguistic support that she says is superior to that offered in Nova Scotia. I have carefully weighed all of these considerations against the diminishment of the relationship between the child and his father. The father correctly notes that the distance will compromise his ability to spend time with the child as compared to his current parenting arrangement.

[72] That said, the relationship between the child and father will continue. As noted in the order below, he will have extensive time in the summer, over March break, at Christmas and at other times available to him as well as time every second weekend. The parents will meet at a suitable location in the middle of their two homes to reduce driving time and expense for the father. It is true that his time during the week will be eliminated and his time on the weekends will be reduced; there is no doubt of that. But that must be weighed against the benefit to the child of the relocation.

[73] I accept that both parents love this child deeply and the child loves each of them deeply as well. The parents want what is best for the child, and despite their own difficult history in the relationship and since, the fact that they have been able to coparent and work through these difficulties, with some challenges, is to their credit and to the benefit of the child.

[74] I find that this relocation is in the child's best interests when weighing all the factors to be considered. The application for relocation is therefore granted.

Child Support - Retroactive and Prospective

[75] The mother seeks retroactive child support from the father on the basis that he has not paid child support since separation. The father does not say that he has paid direct child support during that time but does say that he paid expenses such as the mother's cell phone bill, house insurance and wood for heating up to approximately May 2022. He claims there were other bills that he continued to pay well into 2022. He also says the home into which he moved, a rental property of the parties, requires extensive work which will impact his financials situation into the future. He is seeking a waiver of any claim to retroactive child support.

[76] The father does not provide any details regarding these incurred expenses that he claims to have made to the benefit of the child. Nor does he provide any

estimates as to the cost of his housing repairs going forward. He does attach several photographs to one affidavit which seem to illustrate extensive work required. That said, child support is the right of the child, not the parent. Given the absence of any supporting evidence regarding the father's claim to have paid expenses that would benefit the child in the past and therefore potentially set off any child support owed, and the fact that he has not filed an undue hardship claim to vary the amount of support from the table amount on the basis of his upcoming housing expenses by way of repair or renovation, I find that the full amount of child support is owed retroactively in this matter.

[77] In doing so, I also find that the parents were not in a shared parenting arrangement. The father has not formally advanced this argument, other than to see it if relocation were denied. Based on the evidence of the father's parenting time, he does not meet the 40% threshold level. I find there has not been a history of shared parenting since separation.

[78] With that in mind, the only evidence of income that I have is that from the father's 2021 tax return which indicates a gross income of \$44,573.30 and which results in a monthly table amount of child support of \$379.81. This amount will be owed from July 1, 2021 to today, which amounts to \$7596.20. Given that the father will have expenses related to parenting time with the child, a payment schedule is proposed by the mother and is appropriate in all the circumstances. I order him to pay \$100 per month towards the retroactive amount of child support until it is fully satisfied.

[79] Respecting prospective child support, the table amount should likewise apply, and the father is ordered to pay the mother the full amount of child support on a monthly basis of \$379.81 commencing the first day of March, 2023. I will not make any adjustment to that child support amount as I will be ordering the parents to share in the travel time and they will bear that equally.

[80] Respecting any section 7 expenses. I note that the mother's income is \$56,386.80 and the father's is \$44,573.30. I order that they share these expenses proportionate to their income with the mother incurring 56% of the cost and the father incurring 44% of the cost of any agreed upon section 7 expenses.

Order

[81] The application for relocation is granted and the order will be as follows:

1. The parents shall have joint decision-making responsibility for the child. They shall keep each other reasonably informed of all major issues concerning the child's health, education, religious or spiritual upbringing and general well-being.
2. They shall provide each other with the name and contact information for any expert or professional involved in such issues or decisions and shall be entitled to meet with or speak with any such expert or professional regarding such issues. Each parent will have full and unfettered access to any records, expert or professional involved in the care of the child. They shall communicate on any such major issues and arrive at a joint decision in the best interests of the child.
3. All communication between the parent shall be conducted in a polite, respectful, businesslike and child focused manner.
4. Each parent is prohibited from making any negative or derogatory comments about the other parent or the other parent's family at any time they have care of the child, whether the child is present for such comments or not. Each parent shall also make all efforts to ensure that no one else makes any such negative or derogatory comments about the other parent or the other parent's family at any time they have care of the child, whether the child is present for such comments or not. In the event any other person is making such comments, the parent who has care of the child shall have that person stop those comments immediately and if they will not stop, remove that person from the vicinity of the child or the child from the vicinity of that person.
5. The mother shall have primary residence and care of the child. She is authorized to relocate the child with her to Beresford, New Brunswick.
6. Each parent shall immediately notify the other parent of any change of their address or other contact information.
7. The father shall have parenting time as follows:

- a. Every second weekend from Friday evening to Sunday evening.
- b. If, on any weekend that the father has parenting time, there is no school on Friday or Monday, or both, the father shall have the option of extending his parenting time to include those additional days. The father will notify the mother at least seven days in advance if he intends to exercise such additional parenting time.
- c. Summer - During the summer school break, the father will have parenting time with the child for up to five consecutive or non-consecutive weeks and shall provide to the mother notice of which weeks he wishes to have the child with him by May 1 each year. The father will not be required to be on vacation during this parenting time.
- d. March Break - During the school March Break, the child will be in the father's care from Friday evening at the commencement of March Break until Sunday evening at the end of March Break.
- e. Christmas - The Christmas break is defined as the school Christmas break. In odd numbered years the father will have the child with him from the last day of school commencing the Christmas break until Boxing Day at 4 PM and the mother will have the child in her care from Boxing Day at 4 PM until the child returns to school. In even numbered years, the mother will have the child in her care from the commencement of the Christmas break until Boxing Day at 4 PM, and the father will have the child in his care from Boxing Day at 4 PM until the evening of the last day of the Christmas break.
- f. The father shall have any further parenting time with the child as agreed upon between the parents. This shall include, but not be limited to, generous parenting time arranged between the parties should the father be able to travel to New Brunswick.
- g. The father shall have generous and liberal interaction time with the child by videoconferencing or telephone or both and shall have

other electronic interaction with the child.

- h. For all parenting time for the father, the parents shall meet at a location approximately halfway between their two residences for the exchange of the child and shall incur their own costs for such transportation.
8. The father shall pay to the mother retroactive child support in the amount of \$7,596.20 up to February 2023 and shall make a payment on this amount in in the sum of \$100 per month commencing March 1, 2023 until the amount is paid in full.
9. The father will pay prospective child support commencing the first day of March, 2023 and continuing on the first day of each month thereafter in the amount of \$379.81 based on upon an income of \$44,573.30.
10. The parents will share proportionately the net cost of any agreed upon section 7 expenses, including extracurricular activities. At this time the father's income is of \$44,573.30 and the mother's income is \$56,386.80. The father shall therefore pay 44% of any such agreed-upon section 7 expenses and mother shall pay 56% of any agreed upon section 7 expenses.
11. The parents will exchange complete Tax Returns and Notices of Assessment each year on or before June 15 so long s there is a claim for section expenses. If no such claim is being made, the father must disclose his complete Tax Return and Notice of Assessment on or before June 15 each year.
12. The order will contain the normal enforcement provisions.

Costs

[82] I have considered the issue of cost in this matter and declined to award same.

[83] Counsel for the respondent mother shall draw the order.

Timothy G. Daley, JFC