

IN THE FAMILY COURT OF NOVA SCOTIA
Citation: L.L.F. v. J.D., 2004 NSFC 19

Date: 20041201
Docket: 02Y018903
Registry: Yarmouth

Between:

L.L.F.

Plaintiff

v.

J.D.

Defendant

LIBRARY HEADING

Judge: The Honourable Chief Judge John D. Comeau
Chief Judge of the Family Court of Nova Scotia

Heard: July 21, 2004 in Yarmouth, Nova Scotia

Final Written Submissions: Final Brief received November 15, 2004

Written Decision: December 1, 2004

Subject: **Determination of Household Income for standard of living calculation**

Summary: **The parties filed financial information with the Court and the Respondent claimed undue hardship. He passed the first test because of a requirement to pay spousal and child support for another child. In order to determine whether the Respondent was entitled to a departure from the guidelines by virtue of undue hardship, a schedule II calculation of standards of living was required.**

Issue: What was household income for the purpose of calculation of standards of living.

Result:

The Court allowed the Applicant's common law spouse's income to be adjusted downward because of child support payable and a commitment to an insurance trust for the children. His income is considered "household" income under schedule II.

The Respondent's income was from self-employment and the Court discussed how such income should be treated as reiterated in Snow v. Wilcox (Snow), 1999 NSCH 163 Flinn J.A.. It was determined that the Applicant had a lower standard of living but pointed to the fact there was not a large difference in both ratios. Even if the Respondent's ratio was lower, given the corporate benefits he received or was able to obtain, the payment of guideline support would not cause undue hardship.

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