

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Grace v. Cameron*, 2023 NSSC 110

Date: 20230329

Docket: *Sydney* No. 117569

Registry: Sydney

Between:

Kaitlyn Grace

Applicant

v.

Kyle Cameron

Respondent

Judge: The Honourable Justice Lee Anne MacLeod-Archer

Heard: January 13, 2023, in Sydney, Nova Scotia

Written Release: March 29, 2023

Counsel: Steven Jamael for the Kaitlyn Grace
Kyle Cameron, Self-Represented

By the Court:

[1] The parties are the parents of a young child K, who is almost seven years of age.

[2] They lived together for about four years before separating. At the time, K was a toddler. He lived primarily with Ms. Grace after separation.

[3] Ms. Grace filed an Application on April 11, 2020. In it, she asked only for child support, though in her Parenting Statement she asked for shared decision-making authority and primary care. Mr. Cameron filed a Response on October 23, 2020 in which he requested custody and parenting arrangements, child support, and “Division of Assets and Debts”. He did not file a sworn Statement of Income or income disclosure as directed.

[4] A hearing took place on January 13, 2023. I heard evidence from the parties, as well as from Mr. Cameron’s employer (under subpoena). I reserved decision and requested calculations from Ms. Grace’s counsel on child support.

ISSUES:

1. What parenting arrangements are in the child’s best interests?
2. What child support is payable?
3. Should there be a division of assets and debts?
4. Costs

ISSUE #1: What parenting arrangements are in the child’s best interests?

[5] The governing legislation is the *Parenting and Support Act*, R.S.N.S. 1989, c.160. Section 18(5) of the *PSA* requires the Court to give paramount consideration to the best interests of the child when determining what parenting arrangements should be ordered. Section 18(6) of the *PSA* requires the Court to consider all relevant circumstances when determining the best interests of the child, including:

- (a) the child’s physical, emotional, social and educational needs, including the child’s need for stability and safety, taking into account the child’s age and stage of development;

- This child K is almost seven years of age. He is entirely dependant on the adults in his life to provide care, safety, and guidance. His parents have a high conflict relationship, and the evidence is clear that K has been exposed to that conflict.
- The child is of school age and he attends an after-school program where his mother works. There's no evidence of special needs. I have not considered the opinions or argument expressed in Ms. Grace's affidavit with respect to K's needs.

(b) each parent's or guardian's willingness to support the development and maintenance of the child's relationship with the other parent or guardian;

- Mr. Cameron is unable to respectfully communicate with Ms. Grace. The evidence is clear that he communicates in a demeaning and abusive manner. Ms. Grace often responds in a disrespectful and goading manner, despite her assertion that she communicates in a reasonable fashion.
- Despite the hostility apparent in their exchanges, I'm satisfied that Ms. Grace has made genuine efforts to keep Mr. Cameron involved in the child's life, through consenting to an interim order to address parenting, for example. She did withhold the child for a period of time, alleging that Mr. Cameron was using drugs. In their messages, he admits to past drug use. Despite that, Ms. Grace says that she's satisfied that he's "cleaned up his act" and she's prepared to agree to K spending alternate weekends in Mr. Cameron's care.
- I'm not satisfied that Mr. Cameron is able and willing to support a healthy relationship with Ms. Grace. His attitude towards Ms. Grace remains extremely hostile.

(c) the history of care for the child, having regard to the child's physical, emotional, social and educational needs;

- The child has been in the care of both parents under the interim parenting arrangements they agreed to follow in 2020. However, Ms. Grace says that the interim rotation of 2-2-3 days isn't working. She says that the schedule doesn't meet the child's best interests because of the level of conflict and his need for a stable routine. Mr. Cameron wants the interim arrangement of 2-2-3 days to continue. However, he concedes that Ms. Grace should have primary care and decision-making authority for the child.

(d) the plans proposed for the child's care and upbringing, having regard to the child's physical, emotional, social and educational needs;

- All children benefit from a respectful parenting relationship and stable, secure, and healthy parenting arrangements. A child of K's age is especially vulnerable to parental conflict because he cannot shield himself from it. There's little evidence of the child's physical, emotional, social, and educational needs, other than Ms. Grace's assertion that K needs stability in relation to his school, sleep, and activities.

(e) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including the child's aboriginal upbringing and heritage, if applicable;

- The child is mixed race, but there's no evidence regarding a connection with his heritage or culture.

(f) the child's views and preferences, if the court considers it necessary and appropriate to ascertain them given the child's age and stage of development and if the views and preferences can reasonably be ascertained;

- The child is too young to offer or ascertain his views.

(g) the nature, strength and stability of the relationship between the child and each parent or guardian;

- There's no evidence that the child's relationship with either parent is stronger, though I find that his relationship with his mother is more stable and healthy. His father's abusive treatment of Ms. Grace cannot help but affect his relationship with the child.

(h) the nature, strength and stability of the relationship between the child and each sibling, grandparent and other significant person in the child's life;

- The child lives with his mother in the grandmother's home, so he has a close relationship with the maternal grandmother. There's no evidence of any relationship with the paternal side of his family.

(i) the ability of each parent, guardian or other person in respect of whom the order would apply to communicate and cooperate on issues affecting the child;

- Mr. Cameron has shown that he cannot communicate respectfully with Ms. Grace. A consent order was issued requiring the parties to communicate via a communications App, but Mr. Cameron refuses to use it and continues to text Ms. Grace.
- Ms. Grace says that she communicates appropriately, but there are examples of her responding to Mr. G's messages in a goading and inappropriate manner.
- Despite this, the parties were able to cooperate in implementing an interim parenting arrangement, so there is some ability to cooperate on issues affecting the child.

(ia) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child;

- A provincial court undertaking was issued in January, 2021, requiring Mr. Cameron to refrain from contact with Ms. Grace, other than while exchanging the child for parenting time. Then an order was issued under the *Domestic Violence Intervention Act*, S.N.S. 2001, c. 29, in June, 2021 and confirmed by the Supreme Court. The evidence satisfies me that Mr. Cameron ignored those orders. He continues to communicate with Ms. Grace in a demeaning and abusive manner.

(j) the impact of any family violence, abuse or intimidation, regardless of whether the child has been directly exposed, including any impact on

- (i) the ability of the person causing the family violence, abuse or intimidation to care for and meet the needs of the child, and
- (ii) the appropriateness of an arrangement that would require co-operation on issues affecting the child, including whether requiring such co-operation would threaten the safety or security of the child or of any other person

[6] Section 2(da) of the *PSA* states:

(da) “family violence, abuse or intimidation” means deliberate and purposeful violence, abuse or intimidation perpetrated by a person against another member of that person’s family in a single act or a series of acts forming a pattern of abuse, and includes

- (i) causing or attempting to cause physical or sexual abuse, including forced confinement or deprivation of the necessities of life, or

(ii) causing or attempting to cause psychological or emotional abuse that constitutes a pattern of coercive or controlling behaviour including, but not limited to,

(A) engaging in intimidation, harassment or threats, including threats to harm a family member, other persons, pets or property,

(B) placing unreasonable restrictions on, or preventing the exercise of, a family member's financial or personal autonomy,

(C) stalking, or

(D) intentionally damaging property, but does not include acts of self-protection or protection of another person;

- I'm satisfied that the evidence supports the allegations of family violence perpetrated by Mr. Cameron. I find that he demonstrated abusive actions, messages, and threats. As a result, requiring cooperation between the parties under a shared parenting arrangement or even a continuation of the 2-2-3 days threatens the safety and security of the child and Ms. Grace. It requires too much contact between Mr. Cameron and Ms. Grace and it requires too many transitions for the child.

- Ms. Grace asks the court to order the parenting schedule contained in a draft order submitted with her brief. It essentially gives her primary care and decision-making responsibility, as well as day-to-day care of the child on week days and every second weekend. Mr. Cameron asks that the 2-2-3 arrangement continue.

[7] I find that the draft order containing a parenting schedule and terms proposed by Ms. Grace is in the best interests of the child. It will serve to reduce the conflict to which the child is exposed, and it maximizes Mr. Cameron's parenting time to the extent that such parenting time is consistent with the child's best interests, per s.18(8). In effect, Ms. Grace will have primary care and decision-making authority. Mr. Cameron will exercise parenting time every second weekend and during holidays. A copy of the parenting clauses from the draft order is attached as Schedule "A".

[8] In addition to the terms proposed by Ms. Grace, both parents are required to participate in (and successfully complete) a high conflict parenting program, and Mr. Cameron must attend and complete one-on-one anger management counselling (with completion meaning a minimum of 6 sessions).

ISSUE #2: What child support is payable?

[9] The evidence shows that Mr. Cameron earned \$2,553.63 bi-weekly from his new employment in 2022. That equates to \$66,394.38 per annum. I accept that figure as his 2022 income for child support purposes. He must pay child support for one child under the Nova Scotia table of \$567.55 per month. According to her counsel's post-trial submissions, Ms. Grace seeks child support payable on a prospective basis only, so I direct that the monthly child support be paid through the Director of Maintenance Enforcement, commencing January 1, 2023.

[10] In addition to the table amount, Ms. Grace seeks a contribution to Section 7 expenses. She didn't file a Statement of Section 7 Expenses as required under *Civil Procedure Rule 59.2* nor did she tender any evidence of Section 7 expenses incurred or anticipated. There's reference in her affidavit to the child's activities, and to the child attending an after-school program, but there's no evidence of costs she incurs for these things.

[11] Despite that, Mr. Cameron indicated that he is willing to continue paying an equal share of the child's net Section 7 expenses. I therefore direct that such a term form part of the final child support order.

ISSUE #3: Should there be a division of assets and debts?

[12] Ms. Grace filed no pleadings with respect to a division of assets and debts, although she filed a Statement of Property. Mr. Cameron requested "Division of Assets and Debts" in his Response. Ms. Grace led evidence in her affidavit that Mr. Cameron added her to a joint account and ran up an overdraft without her approval. She says that she didn't benefit from the monies spent, and that Mr. Cameron acknowledged responsibility for the debt in a text exchange in which he says that the debt is being "looked after".

[13] Mr. Cameron led no evidence to rebut Ms. Grace's claim that he should be held solely responsible for the RBC debt. He asks that the parties be ordered to share responsibility for the debt.

[14] Neither party addressed the test for determining property issues between common-law spouses, namely the equitable remedy of unjust enrichment. However, at a very basic level, it appears that Mr. Cameron obtained a benefit (monies on overdraft from RBC); and Ms. Grace suffered a corresponding deprivation (liability for the overdraft debt).

[15] The question of whether there's a juristic reason is murkier. This is a joint account, so normally that involves documents signed by both parties which leave them bearing joint and several responsibility for the debt. A signed contract would present a juristic reason to hold Ms. Grace responsible for the debt.

[16] However, Ms. Grace asserts that after separation, Mr. Cameron "added" her to the bank account, which suggests that she did not agree to incur the debt. Further she says that she spent "none of the money". Mr. Cameron's text acknowledgement seems to confirm that he took responsibility for the debt. I accept the unrefuted evidence that Ms. Grace did not know about the debt or benefit from it.

[17] In these circumstances, I find that no juristic reason why Ms. Grace should bear responsibility for the overdraft, and that Mr. Cameron should pay it. I direct that if RBC takes further collection action against Ms. Grace, she may recover any sums she pays to retire the debt as spousal support payable by Mr. Cameron. She may present proof of payment on the debt to the Director of Maintenance Enforcement, who will be responsible to collect payment from Mr. Cameron.

ISSUE #4: Costs

[18] Ms. Grace has been the more successful party on this Application. I award her costs of \$1,500.00 payable within 30 days by Mr. Cameron.

MacLeod-Archer, J.

SCHEDULE “A”

The following is ordered under the *Parenting and Support Act*;

Custody

1. The parties shall have joint custody of the child, K.
2. Kaitlyn Grace shall have primary care and final decision making on all major issues, but will consult with Kyle Cameron before making any decisions.
3. Day to day decisions will be made by the parent with whom the child is residing with at the time

Parenting Time

4. Week 1: The Respondent shall have parenting time from Friday after school to Sunday evening at 6:00 p.m.
5. Week 2: The Respondent will have parenting time from Wednesday after school to Friday morning when school starts; the Respondent will ensure the child gets to school Friday morning.
6. If the child is with the Respondent during a night where the Respondent works backshift the Applicant will have the option to have the child stay with her during the night. The intention of this is to keep the child in his regular routine.
7. The Respondent shall have other reasonable parenting time as agreed to by the parties.
8. The child shall be delivered to the other parent and retrieved after the Respondent’s parenting time at the home of the Respondent’s grandmother and not at the Applicant’s home.

Holiday Parenting Time

9. Holiday and special occasions shall replace the regular parenting time as follows:
10. In even numbered years the Applicant shall have parenting time with the child from December 24th at noon to December 25th at 3:00 p.m, and the Respondent will have parenting time from December 25th at 3:00 p.m. to December 26th at 6:00 p.m.; this rotates each year.
11. Each party shall have a week of summer holidays every year with the child. Each party must communicate their choice of week no later than May 15th each year. The Applicant shall have first choice in even numbered years, and the Respondent shall have first choice in odd

numbered years; the week will run from Sunday at noon to the following Sunday at noon.

12. The parties will continue the regular schedule for March break.
13. The applicant shall have parenting time every Easter Sunday from 10:00 a.m. to 6:00 p.m. regardless of who's weekend it is.
14. On the child's birthday the child will have an hour visit, or more if agreed, with the parent who he is not scheduled to be with.
15. The parties will accommodate each other's requests for family events, and birthdays, and neither will unreasonably deny the other's request if made one week in advance.

Travel & Ancillary Orders

16. The Respondent shall be responsible to pay the entire balance owed to any creditors, including, but not limited to the Royal Bank of Canada in relation to Exhibit "B" of the Applicant's April 21st, 2022 Affidavit.
17. Either parent may travel with the child within Nova Scotia during their parenting time without notice to the other.
18. If either parent plans to travel outside of Nova Scotia with the child, but within Canada, they must provide a months notice to the other parent, as well as a return date, and contact information for the child for the duration of the trip.
19. Neither parent will unreasonably withhold consent for the other parent to travel with the child internationally. The parent not travelling with the child will provide a letter of consent, in the form recommended by Canada Border Services, to the parent travelling with the child, provided that details of the travel have been given to the non-traveling parent in advance. Details of the travel shall include departure and return dates, flight numbers and carrier if available, an address while out of the country, and contact information for the duration of the trip.
20. In the event that either party request the other parent sign a passport application or other documentation for the child, the documentation shall be signed without unreasonable delay.
21. The child's documents, which will include but not be limited to health cards, birth certificates and passports, will be provided to either party upon request, and will be returned when they are no longer needed. Both parties may keep copies of all the child's documents; The Applicant shall hold the child's passport, unless the Respondent needs it.
22. Both parents and any partners either may have are permitted to attend the child's school and extracurricular activities, regardless of whose scheduled time it is with the child. There must be no conflict between the parents and their possible partners at such venues; There will be no inappropriate comments or gestures made.

23. There will be no adult discussions surrounding this legal proceeding, the order, parenting arrangements, child support, etc. with the child; both parents will ensure that others refrain from doing so as well.
24. Both parties must enroll in and complete a high conflict parenting program. The Respondent must also complete anger management counselling.