

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER of the *Children's Law Act*,
S.N.W.T. 1997, c.14, as amended

BETWEEN:

JOSHUA DEAN OMILGOITUK

Applicant

- and -

AGNES AUGUSTA KAGLIK

Respondent

**REASONS FOR DECISION
of the
HONOURABLE JUDGE B. E. SCHMALTZ**

Heard at: Inuvik, Northwest Territories
June 18, 2010

Reasons Filed: September 16, 2010

Counsel for the Applicant: Candace Seddon

Counsel for the Respondent: Appearing on her own behalf

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER of the *Children's Law Act*,
S.N.W.T. 1997, c. 14, as amended

Between:

JOSHUA DEAN OMILGOITUK

Applicant

- and -

AGNES AUGUSTA KAGLIK

Respondent

I. INTRODUCTION

[1] Joshua Omilgoituk (the Applicant) seeks sole custody of MRM (born March 1/92), SARO (born January 7/95), and CAO (born December 8/95) (the Children), and that Agnes Kaglik (the Respondent) be ordered to pay child support for the Children in the amount of \$200.00 every two weeks, beginning June 25, 2010. The Respondent is in agreement with this, and a consent Order was submitted for my consideration.

[2] After reviewing the relevant legislation along with the material filed, I granted the Order. Section 59.1(2) of the *Children's Law Act*, S.N.W.T. 1997, c.14 sets out a requirement for written reasons when the amount of child support awarded is different than the amount that would be determined on application of the *Guidelines*. Such is the case here, and the following are my reasons for my decision to grant the order.

[3] The Respondent acknowledges that she has a responsibility to pay child support to the Applicant for the Children, and the parties have agreed on an amount that both consider reasonable. The amount of support that the parties have agreed to is somewhat less than the amount set out in the *Child Support Guidelines*. This year the Respondent's income is approximately \$26,600 per annum, and the *Guidelines* set out child support for the Children of \$557 per month; the parties have agreed to an amount of \$433 per month.

[4] Material has been filed on this consent application in support of the lower amount of support. I am satisfied that the Respondent's income has fluctuated to some degree over the past few years; I am satisfied that as the children get older there may be other factors to take into account besides tables and income levels when determining amounts of child support to be paid; and I am satisfied that the Applicant and Respondent have considered all the factors that are relevant to their and to their children's situation, and reached this agreement with the best interests of their children in mind.

Applicable Legislation

[5] Sections 59 and of the *Children's Law Act* states:

59. (1) A court may, on application, order a parent to provide support for his or her child and determine the amount and duration of such support.
...
(4) A court making an order under subsection (1) ... shall do so in accordance with the applicable guidelines.

[6] Sections 59.1(3) and (4) of the *Children's Law Act* refers specifically to consent orders and states:

- 59.1 (3) Notwithstanding subsection 59(4), on the consent of the parties in an application under section 59, the court may award an amount for the support of a child that is different from the amount that would be determined in accordance with the applicable guidelines if it is satisfied, having regard to the applicable guidelines, that reasonable arrangements have been made for the support of the child.

(4) In determining under subsection (3) whether reasonable arrangements have been made for the support of a child, the court shall not consider the arrangements to be unreasonable solely because the amount of support agreed to is not the same as the amount that would otherwise have been determined in accordance with the applicable guidelines.

[7] In light of the agreement reached between the Applicant and the Respondent, the fluctuation in the Respondent's income, and the age of the Children, even though the amount agreed upon by the parties is somewhat lower than the amount that would be determined in reference to the *Guidelines*, I am satisfied that reasonable arrangements have been made for the support of the Children.

VII. CONCLUSION:

[8] The Consent Order provided by the parties was granted, providing that: the Applicant is granted sole custody of the Children, and the Respondent shall have reasonable and generous access with the Children at reasonable times, and upon reasonable notice to the Applicant; the Respondent shall pay child support for the Children to the Applicant of \$200 every two weeks starting June 25/10, and continuing every second Friday thereafter until further order of the Court.

Bernadette E. Schmaltz
Territorial Court Judge

Dated this 16 day of September, 2010
at Inuvik, Northwest Territories

**IN THE TERRITORIAL COURT OF THE
NORTHWEST TERRITORIES**

**IN THE MATTER of the *Children's Law Act*,
S.N.W.T. 1997, c.14, as amended**

JOSHUA DEAN OMILGOITUK

Applicant

- and -

AGNES AUGUSTA KAGLIK

Respondent

REASONS FOR DECISION

of the

HONOURABLE JUDGE B.E. SCHMALTZ
