

# SUPREME COURT OF YUKON

Citation: *TAH v CDMH*  
2023 YKSC 1

Date: 20230103  
S.C. No. 13-D4597  
Registry: Whitehorse

BETWEEN

T.A.H.

PLAINTIFF

AND

C.D.M.H.

DEFENDANT

Before Justice G.M. Mulligan

Counsel for the plaintiff

Kathleen Kinchen

Appearing on his own behalf

C.D.M.H.  
(by videoconference)

Counsel for the Child

Shaunagh Stikeman

## REASONS FOR DECISION

### Introduction

[1] The defendant, C.D.M.H., brought an application to have his daughter relocate to his home in British Columbia from the plaintiff, T.A.H.'s home in the Yukon. After a hearing on November 30, 2022, the application was granted. The parties were unable to agree on a visiting schedule and were invited to make submissions. I have now received and reviewed those submissions.

### Background Facts

[2] The parties were married in 2007. D.G.J.H., the child of the marriage (the "Child"), was born in February 2008. The parties separated in 2013 and divorced in

2015. They entered into a joint custody agreement in 2015 when the Child was 4 years old, with the Child residing primarily with her mother in the Yukon but with generous access with her father at his residence in British Columbia. Both parties contributed to the Child's travel costs.

### **The Child's Wishes**

[3] The Child's wish to spend more time with her father was recognized in a Parenting Plan Evaluation Report prepared by Leanne Harder, MSW, in June 2022. The matter first came before me at a hearing on September 23, 2022. At the hearing the office of the Child Lawyer was recommended. A lawyer was appointed. She then interviewed the Child, filed a report, and attended the hearing on November 30, 2022.

[4] The Order granting the relocation of the Child left a number of issues to be resolved including the visitation schedule and collateral issues. The parties were invited to file submissions and have now done so.

### **The Schedule**

[5] Based on a move to the father's residence in July 2023, the plaintiff has filed a schedule "A" of dates for the Child's visits with the defendant until then and visits with the plaintiff thereafter. That Schedule is attached to this decision. The defendant takes no issue with the schedule with one exception. The plaintiff suggested that the Child's move take place July 18, 2023, and that the Child spend time with the plaintiff again from August 4-18, 2023, for an annual family vacation on Vancouver Island.

[6] The defendant suggests that the Child's move to his residence be delayed until after August 12, 2023.

[7] I am satisfied that in all the circumstances the Child's move should take place as soon as practical after her vacation with her mother and the family ends on August 18, 2023.

[8] With this amendment, I otherwise order the implementation of Schedule "A" as proposed by the plaintiff.

### **Child Support**

[9] The plaintiff proposes that she pay child support of \$850 per month to the defendant as per the *Federal Child Support Guidelines*. The defendant takes no issue with this. It is ordered that child support be paid by the plaintiff in the amount of \$850 per month starting in August 2023 and prorated for that month based on the Child's move on August 19, 2023. The parties are also ordered to exchange Notices of Assessment on or before June 1<sup>st</sup> annually.

### **The Child's Travel Costs**

[10] The Child has traveled extensively to spend as much time as she can to visit her father. Historically the parties have shared the costs. The plaintiff proposes that they share travel costs equally up to \$1,500 annually. The defendant proposes that he pay nothing because he feels the plaintiff's household income is greater than his income.

### **Special or Extraordinary Expenses**

[11] Section 7 of the *Child Support Guidelines* deals with extraordinary child care expenses. The defendant's submission regarding travel costs seems to be rooted in an undue hardship argument which could be dealt with under s.10 of the *Guidelines*. If so a comparison of household standard of living might be relevant.

[12] The parties have not provided any updated financial information. I urge them to exchange such information. The defendant can then consider a hardship application with respect to his contribution to travel expenses, if the parties cannot reach an agreement.

[13] In the interim I order the defendant to contribute up to \$1,500 for the Child's travel costs in 2023. But as the plaintiff noted in her submissions, buying tickets in advance for the Child would benefit both parents. There may be some further economies in buying student flight passes if available. The plaintiff is employed by the Yukon government. If any travel perks are available for her child, this should be disclosed to the defendant.

[14] In addition, both parties shall cooperate if any applications or revisions of the Child Tax Benefit are required.

### **The Child's Counselling**

[15] The Child has benefited from counselling from Jody Studney, a therapist, in Whitehorse. As Leanne Harder set out on page 46 of her Report:

Most recently, Jody is seeing [the Child] every two to three weeks regarding her anxiety and to assess where her anxiety levels are at while she is taking a new medication.

[16] The assessor also reports that the Child is on prescribed medication for anxiety from her family doctor. I am satisfied that such counselling should continue in person or by Zoom for so long as the Child benefits.

### **The Child's Lawyer**

[17] The Court had the benefit of a report from Shaunagh Stikeman. As the child's lawyer she had an opportunity to review the assessor's lengthy report and met with the

Child several times. She found the Child to be highly intelligent and self-aware. As to the parenting conflict, she set out in her written report of October 31, 2022, that:

[The Child] is very much aware of the long-standing conflict between her parents. This conflict between her parents causes her the most stress in her life. She is hopeful that her parents can view this [move] as a positive turning point in their coparenting relationship. ...

### **Joint Custody**

[18] The parties have joint custody and I am satisfied that it should continue. There have been numerous conflicts over the years, but I am hopeful that they will listen to the Child, who will soon be 15, and consider this move as a positive turning point.

[19] Leanne Harder provided a sample Coparent Communication Protocol as an appendix to her report. I urge the parents to adopt this protocol with modifications as needed.

[20] Both parties should ensure that both parents have access to school and medical information about the Child on a timely basis. Both parties should refrain from making negative comments to the Child about the other parent and the Child should not be a go-between regarding parenting disputes. For greater scrutiny, communication should be by email with the parties keeping a written record.

### **Other Travel**

[21] If either parent plans to travel with the Child for more than 72 hours, travel details are to be provided to the other parent.

[22] The Child can travel with her mother between the Yukon and Alaska at anytime subject to the said travel details being provided to the defendant.

**Annual Review**

[23] The assessor's report suggested that the move would take place by September 2022 and be reviewed after one year.

[24] The present Order provides that she will move to her father's residence in British Columbia in August 2023 and the schedule provides visiting until August 2024. By that time the Child will be 16.5 years old. I am satisfied that a further meeting with the Child and the Child's Lawyer will help to ascertain the Child's wishes and may guide the parents without the need for a formal review.

[25] Order to go accordingly. Counsel for the plaintiff will prepare a draft order and provide it to the defendant. Because he is self-represented his approval as to form and content is waived.

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MULLIGAN J.

## Schedule "A"

When	Proposed Dates	Where	Notes
Christmas 2022	December 18 - December 31, 2022	BC	
The Child's Birthday	February 24, 2023	Yukon	No Travel
Spring Break 2023	March 12 - 25, 2023	BC	
Easter 2023	April 07 - 10, 2023	Yukon	No Travel
The father's Birthday	May 24, 2023	BC	5 days
The Mother's Birthday	July 15, 2023	Yukon	No Travel
Yukon to BC	July 18, 2023	BC	
*Change in Residency*			
Family Vacation	August 4 - 18, 2023	Vancouver Island	Mother to pay travel costs
Thanksgiving	October 09, 2023	BC	No Travel
Remembrance Day	November 11, 2023	Yukon	5 days
Christmas 2023	December 23 - January 06, 2024	Yukon	
The Child's Birthday	February 24, 2024	BC	No Travel
Spring Break 2024	March 16 - 29, 2024	Yukon	
Easter 2024	March 31, 2024	BC	No Travel
The Father's Birthday	May 24, 2024	BC	No Travel
Summer 2024	July 6 - August 17, 2024	Yukon	Includes Family Holidays