

IN THE SUPREME COURT OF THE YUKON TERRITORY

BETWEEN:

C.C.H.L.

Plaintiff

AND:

B.P.L.

Defendant

No one

For the Plaintiff

David Christie

For the Defendant

**MEMORANDUM OF JUDGMENT
DELIVERED FROM THE BENCH**

[1] VEALEJ. (Oral): This is an application by B.L., for three things:

- 1) A finding that his gross annual income for the purposes of child support is \$24, 000;
- 2) That he should pay \$212 per month for the support of his child, H.L., commencing June 1, 2003;
- 3) The outstanding arrears of child support in the amount of \$14,600 should be rescinded.

[2] There are three court orders that have been filed before me. They are out of the Court of Queen's Bench of Alberta. In the 1996 order, Mr. L. was ordered to pay \$600 per month for child support for H. L., commencing October 1, 1996. H.L. was born on July 1, 1995, and she is now eight years old.

[3] The evidence before me presents an unfortunate state of affairs in that Mr. L. has been earning approximately \$24,000 per year with a high child support payment which had been ordered back in 1996, which was based on the income from his family farm and logging operation in Alberta. However, following the division of matrimonial property, the farm was lost and Mr. L. came to the Yukon in the fall of 1998 to seek logging work for his skidder. Mr. L. operates a logging company and he is the only employee. As I understand it, the only asset of the logging company is a skidder.

[4] Despite the fact that Mr. L.'s income has been substantially reduced to the sum of now, on average, \$24,000, he has been able to pay \$31,000 out of a total of \$47,400 owing for child support. In effect he has paid \$392 per month, which is higher than the \$212 per month that would have been ordered based on an income of \$24,000 according to the Federal Child Support Guidelines.

[5] It is unfortunate that these provisional applications come on without any evidence from C.L., who resides with H.L. in Fort St. John, at least for the last two years. However, there is no evidence before this court except that provided by Mr. L. in an affidavit filed May 21, 2003.

[6] Based on the information provided, I am going to grant the order sought and order that Mr. L. pay child support for H. L. in the sum of \$212 per month

commencing June 1, 2003. Further, that the outstanding arrears under the child support order be rescinded.

[7] Is there anything further that you seek, Mr. Christie?

[8] MR. CHRISTIE: Well, just to clarify, then, the finding of \$24,000.

[9] THE COURT: For purposes of clarification, the order of \$212 per month is based upon my finding that Mr. L.'s gross annual income for child support is \$24,000 per annum.

[10] MR. CHRISTIE: My Lord, could I just, for drafting the order, could I use the format in my motion with order or I'll use a different format. But the order made be varied or delete the following -- or should I just simply say that that order is varied?

[11] THE COURT: I am sorry, I do not know what you are talking about.

[12] MR. CHRISTIE: Well, I just want to -- it's why I don't have to order the note -- the clerk's notes --

[13] THE COURT: Follow the order you have made in your notice of motion.

[14] MR. CHRISTIE: Thank you.

[15] THE COURT:

Thank you.

VEALE J.