

SUPREME COURT OF YUKON

Citation: *L.R.M. v. J.A.K.*, 2013 YKSC 91

Date: 20130823
Docket: S.C. No. 11-D4379
Registry: Whitehorse

BETWEEN:

L.R.M.

Plaintiff

AND:

J.A.K.

Defendant

Before: Mr. Justice R.S. Veale

Appearances:
H. Shayne Fairman
J.A.K

Counsel for the Plaintiff
Appearing on his own behalf

REASONS FOR JUDGMENT DELIVERED FROM THE BENCH

[1] VEALE J. (Oral): I had set this date to hear Mr. K. and counsel for Ms. M. on the issue of the drop-offs and pick-ups of M., which have been ordered for some time to take place at the door of Extra Foods grocery store in Whitehorse. Mr. K. has taken a great deal of exception to that order in light of the custody and access report that was prepared and now on file.

[2] M., the child in question, is now attending a primary school in Whitehorse, and in a neighbourhood that both Ms. M. and Mr. K. do not reside. I think I am correct in saying that. In any event, it had not occurred to me until it was brought to my attention

today that Mr. K. consented or at least agreed to M. attending the primary school. It appears that the child's attendance from 8:30 a.m. to 3:05 p.m., Monday to Friday, does interrupt the access schedule of Mr. K. every Monday and Wednesday from 9:00 a.m. to 2:30 p.m. Mr. K.'s employment, as I understand it, commences at 3:00 p.m. So that access no longer works out and I leave it to Mr. K.; he has a number of matters in the criminal process to be dealt with next week, which have occupied his time, but I leave it to him to see if other arrangements can be made so that some access to him can be arranged in the future, before trial. I do not know if I indicated but trial is December 9 to 13 of this year.

[3] My view on the interim interim basis is that because there is a great deal of dispute about the underlying issues of the conduct of both parties in this matter that the interim interim access on Monday and Wednesday will be deleted because it is no longer possible to do it with M. going to school, but the weekend access every three or four weekends, commencing on Friday afternoon, can commence for Mr. K. by picking M. up at the primary school. But I am going to order that the Extra Foods drop-off and pick-up continue on Sunday afternoon.

[4] I am also going to make an order with respect to Mr. K.'s ability to deal with the primary school. He indicated that he was not able to attend the first day of M.'s attendance last Wednesday. So I am going to make an order that Mr. K. is entitled to contact the teachers and principal of the primary school to make arrangements to attend school functions where it is appropriate for parents to attend, and to make arrangements to see if any other access can be arranged, at noon hours, perhaps, or

some arrangement of that nature. So I expect that to be in the order, just in case Mr. K. has any difficulties in that regard.

[5] That is all I am prepared to do at this time. I think I have dealt with everything, have I not?

[6] J.A.K.: Your Honour, in the event that -- Mondays are often holidays and P.D. days, that they would be my time. I would like it if the order would reflect that.

[7] THE COURT: I think the order can reflect that. I do not see any reason that that could not take place.

[8] J.A.K.: So that any of the three-day weekends and the bank holidays, that I would be afforded access on those days from --

[9] THE COURT: From your previous times. The order would remain with respect to Monday holidays. What is wrong with that, Mr. Fairman?

[10] MR. FAIRMAN: I don't see that there's anything wrong with that, I just want to make sure we're clear. That would be the weekends that Mr. K. would normally have M., because if it's the weekend that is supposed to have been Ms. M.'s --

[11] THE COURT: We can deal with this one of two ways, we can extend the weekend or we have the access --

[12] MR. FAIRMAN: We're talking about, if Monday's a holiday --

[13] THE COURT: Right.

[14] MR. FAIRMAN: -- the return should be on the Monday rather than the Sunday, fair enough. But what Mr. K. has asserted previously is that if it's a weekend that was Ms. M.'s weekend, the one out of four, and the Monday is a holiday, he wants M. on that Monday; he wants to interfere with Ms. M.'s enjoyment of a long weekend, and we're not okay with that.

[DISCUSSION RE UPCOMING LONG WEEKENDS]

[15] THE COURT: So what Mr. K. is suggesting is that we can delete the Monday and Wednesday interim interim access; that can be clear, but we can simply say that the September 2nd, Labour Day, is Mr. K.'s weekend and that be extended to Monday at 5:00 p.m. Then Ms. M. would have M. on October 14, the Thanksgiving weekend.

[16] J.A.K. All right.

[17] THE COURT: He can sign the order, you can work that out, and if you cannot work it out you can come back.

[18] MR. FAIRMAN: Okay.

[19] THE COURT: Thank you very much, everyone.

VEALE J.