SUPREME COURT OF YUKON

Citation: *B.L. v. M.L.*, 2010 YKSC 41

Date: 20100802
Docket No.: S.C. No. 10-B0003
Registry: Whitehorse

Between:

B.L.

Plaintiff

And

M.L.

Defendant

Before: Mr. Justice Gower

Appearances:

Debbie P. Hoffman — Counsel for the Plaintiff
Brook Land-Murphy — Counsel for the Defendant

REASONS FOR JUDGMENT

INTRODUCTION

[1] These are cross-applications for interim custody of the child, T., who is now 6 ½ years old, by T.'s grandmother, the Plaintiff, and T.'s mother, the Defendant. Each party also seeks additional relief in connection with the interim custody sought, including that the other party's access to T. be specified. The grandmother also seeks access to T.'s infant half-sister, C., who is in the mother's care and custody.

[2] The mother asked the grandmother to take over guardianship of T. on a temporary basis on March 10, 2010 and signed an agreement to that effect on March 15.

The mother then asked for T. to be returned to her and the grandmother declined. On April 8, 2010, the grandmother obtained an Order Without Notice granting her interim interim custody of T., with reasonable access to the mother.

[3] The mother's application was filed in late April 2010, followed by the grandmother's cross-application in early May. The matters could not be heard until July 26, 2010 due to a heavily booked court calendar.

[4] In the meantime, on July 10, 2010, the mother informed the grandmother that she intended to move with T., T.'s father, J.H., and their two other young children, including C., to Leduc, Alberta. However, at the hearing, the mother's counsel announced that her client had changed her mind about the move and was withdrawing that aspect of her application.

ISSUES

[5] The global issue on this application, pursuant to ss. 1 and 30(1) of the *Children's Law Act*, R.S.Y. 2002, c. 31, as amended by S.Y. 2008 c. 1, is to ensure that the best interests of the children are the paramount consideration in determining interim custody and access. Section 30(1) requires this Court to consider "all the needs and circumstances of the child" in determining her best interests, including the specific factors set out in paragraphs (a) through (g), to the extent that they are applicable.

[6] The mother's counsel also submits that there are three subsidiary issues, specifically:

i) the weight to be given to the guardianship agreement between the parties;

ii) the extent to which a biological parent should be entitled to custody over a competing claim by a grandparent; and

iii) the extent to which a grandparent is entitled to access over the objection of a custodial parent.

ANALYSIS

Law

[7] I will deal briefly with the subsidiary issues raised by mother's counsel, starting with the weight to be given to the guardianship agreement. This issue was succinctly dealt with by the British Columbia Court of Appeal in *A.L. v. D.K.,* 2000 BCCA 455, where Finch J.A., for the majority, at para. 11, quoted Mr. Justice Hinds, as he then was, in *Kamimura v. Squibb* (1988), 13 R.F.L. (3d) 31 (B.C.S.C.) as follows:

> "An agreement between the parents concerning the custody of their children cannot oust the jurisdiction of the court to determine the issue of custody. The court must base its decision with respect to custody on the overall best interests of the children. That is not to say, however, that an agreement between the parties of children concerning their custody is not an important factor to be taken into consideration".

At para. 13, Finch J.A. said that this statement by Hinds J. was correct, and continued:

> "... an agreement concerning custody between contending parties is an important factor to take into consideration, but it is only one factor."

[8] On the second subsidiary issue of competing custodial claims by a biological parent and a grandparent, Veale J. of this Court, in *C.B. v. S.B.,* 2009 YKSC 12, examined the conflicting caselaw on point and concluded that there is no legal presumption in favour of biological parents. He noted that the relevant provisions of the Yukon *Children's Act*, as it was then titled, make every effort to avoid such a legal

presumption. Veale J. also accepted the conclusion of the British Columbia Court of Appeal in *Chera v. Chera,* 2008 BCCA 374, that there is no presumption in law favouring biological parents. At para. 55, of *Chera,* Smith J.A., for the Court, concluded that, rather than operating as a presumption, there is simply a common sense approach to custody disputes that, all things being equal, a parent should be entitled to raise his or her child.

[9] As for the third subsidiary issue of a grandparent's access claim over the objection of a custodial parent, as I noted in my earlier decision *G.N. v. D.N.,* 2009 YKSC 75, at paras. 8 and 9, grandparents do not have a legal right to access to their grandchildren. However, they may apply for such access under s. 33(1) of the *Children's Law Act*. In normal circumstances, it is in the best interests of children to have contact with their grandparents and extended family members. Having said that, considerable weight should be given to the wishes of the custodial parent, and care should be taken to ensure that the court does not interfere unduly with the inherent right of a parent to determine the course of their child's upbringing. It is only upon evidence that the custodial parent is acting against the child's best interests by being unreasonable that the court should specify access.

[10] Thus, in determining T.'s interim custodial status and C.'s interim access to the grandmother, I am left with the paramount consideration of what would be in their respective best interests.

[11] In making these determinations, I emphasize that this is an interim application only, and not a trial. Numerous affidavits have been filed by each of the parties and several prospective witnesses. In many respects, there are blatant conflicts in the evidence of the parties and the witnesses, which cannot be resolved without some testing

of the evidence, either through cross-examination on affidavits or a trial. These conflicts in the evidence have made it difficult for me to determine what is best for these children, but I have made certain inferences and findings where there is evidence in support and where it seemed fair and reasonable to do so. I have not addressed many of the points of conflict, as it is unnecessary to do so. To the extent that any of my inferences or findings may be in error, I would encourage the parties to proceed to trial as soon as possible for a more complete assessment of their conflicting allegations.

Interim custody and access relating to T.

[12] It seems logical to proceed in the order of the factors listed in s. 30(1) of the *Children's Law Act*, recognizing that those factors are not an exhaustive list and I am required to consider all of T.'s needs and circumstances relating to her custodial status.

[13] I begin with s.30(1)(a), which speaks of the "bonding, love, affection and emotional ties" between T. and each of her mother and grandmother, as well as other members of T.'s family who have lived with her and who have been involved in her care and upbringing. The grandmother has been involved in T.'s life since her birth. Indeed, after T. was born, the mother and T. lived with the grandmother until February 2005. Although those residential arrangements eventually changed, the mother remained in the same townhouse complex as the grandmother, living only five doors away. The mother continued to live in that townhouse complex until mid-July 2010, when she moved to a two bedroom apartment with T.'s father, J.H. Therefore, I have no difficulty accepting that the grandmother has been actively involved throughout T.'s young life to date, and that there is a significant amount of bonding, love and affection and strong emotional ties between them. Obviously, the same can be said of the mother and T.

[14] Section 30(1)(b) of the *Children's Law Act* speaks of the child's views and preferences. Although there is some evidence of this in the various affidavits, it is largely conflicting. Given that, and the fact that T. is only 6 ½ years old, in the absence of any independent assessment of T.'s views and preferences, I treat this as a neutral factor.

[15] Section 30(1)(c) speaks of the length of time, having regard to the child's sense of time, that she has lived in a stable home environment. T. has been residing with the grandmother steadily since March 10, 2010. It is essentially undisputed that the grandmother's home is and has been a stable environment for T. This can be contrasted with the mother's home. T.'s move to the grandmother's house was precipitated by an email sent by the mother to the grandmother on March 9, 2010, which indicated that the mother was having significant difficulty coping with the stress of raising T. while concurrently attempting to look after her infant child, C., who was born November 24, 2009. The email reads in part as follows:

> "... i just cant do this no more i am at my wits end with miss [T.]. If you are [serious] about her moving in with you i will get all her thing to you and i will start giving you the child tax for her as i dont know what to do no more she is starting to get to the point of throwing thing while I am feeding baby or holding her and i cant have that, i am tired of getting shit throw at me and not only that but now that she dont get what she wants she screams and [scares C.] and is making her cry and scream and it is bugging the hell out of me... so i dont know what to do no more i am tired of this crap i will have everything [of] hers together and what not and i will get it to you.... i am done".

I will have more to say about the relative stability of the mother's home, below.

[16] Section 30(1)(d) of the *Children's Law Act* speaks of the ability and willingness of each person applying for custody to provide the child with guidance and education, the necessities of life and any special needs of the child. In this regard, the grandmother's

counsel points to four aspects of the evidence which she says are “objective” indicators of the grandmother’s ability to provide proper care for T.

[17] The first is the evidence regarding T.’s breathing difficulties. In October 2007, T. was diagnosed with uncontrolled bronchial asthma. The doctor’s opinion was that this was due to smoking in the home by the grandmother and her husband. The grandmother initially said that she limited her smoking to one room of the house, which was well-ventilated and which was subsequently equipped with a special ventilation system. As of May 6, 2010, the grandmother deposed that she has only been smoking outside of her residence. T. and her mother lived in the grandmother’s home at least until T. was 15 months old and subsequently visited regularly. Therefore, it seems probable that her respiratory problems were due in part to the second-hand smoke in the grandmother’s home. However, the mother also admits to having pets and a significant mould problem in her own home, both of which can also contribute to respiratory problems. In any event, there is evidence that, as of May 7, 2010, T. was examined by her doctor and showed no signs of bronchial asthma. In addition, the grandmother has deposed that T. has not had to use her medicinal asthma ‘puffer’ at all since moving in to her home on March 10, 2010. Therefore, despite the fact that the grandmother likely contributed to T.’s respiratory problems in the past, it appears that she has now taken steps which have improved T.’s health in that regard.

[18] The second objective indicator that the grandmother’s counsel points to is the evidence relating to T.’s dental health. It is undisputed that T. had significant cavities in a number of her teeth when she moved into the grandmother’s home. She was experiencing pain and discomfort in eating as a result. Although the mother had obtained

a referral to have T. examined by a dental surgeon, she claims that she could not arrange an appointment because of delays in obtaining dental records from T.'s school. In any event, T.'s cavities went untreated until she moved in with the grandmother, who arranged for T. to be seen by a dentist and scheduled for dental surgery on July 12, 2010. At that time, ten of T.'s teeth were extracted because they were so decayed as to be considered "hopeless" by the dentist. The dentist expressed the opinion that, while the cause of such a problem in children can vary, "the most common cause is very poor oral hygiene". The dentist went on to say that she had discussed this with the grandmother and was confident that with careful monitoring and improved hygiene, T. could avoid such drastic measures in the future.

[19] The mother's counsel argued that T.'s dentist could not say for sure whether her cavities were due solely to poor oral hygiene. She pointed to the evidence that, until about a year ago, the grandmother served Pepsi in her home, and that this too could have contributed to the cavities. On a balance of probabilities, it seems more likely that it was the mother's lack of attention to T.'s oral hygiene which led to T.'s numerous cavities. Furthermore, the problem was obviously very acute, as there is evidence that, when eating, T. was in the habit of breaking off pieces of her sandwich and putting them in the side of her mouth which hurt the least. Given that, and the number of extractions which were ultimately required from such a young child, I find it surprising that the mother did not pursue the referral to a dental surgeon with greater diligence.

[20] The third objective indicator of the ability of the grandmother to provide for T. is the evidence surrounding her performance in school. Her principal wrote a letter on May 5, 2010 to the grandmother, which stated as follows:

> "In discussing [T.'s] progress at school with [our] staff, we have been pleased to observe positive results on several fronts over the last three weeks.
>
> Staff reported that [T.'s] attendance and cleanliness have improved and that she appears happier. She seems to be more engaged in her learning at this time."

[21] The mother's counsel quibbled that the best evidence about T.'s performance and appearance at her school would have been from T.'s own teachers. However, I have no difficulty accepting that the principal's assessment was based on his discussions with T.'s teachers and is therefore likely a fair summary of T.'s improvements to that point in time.

[22] This conclusion is consistent with the results in T.'s report card following the end of her Grade 1 year. Again, the mother's counsel submits that in certain respects, and I counted three, T.'s performance has actually regressed from a 'meeting expectations' to 'requiring support to meet expectations'. Those were generally in the ability to write sentences, spell and organize thoughts clearly. There were additionally two areas of performance within her physical education assessment where T. regressed from 'exceeding expectations' to 'meeting expectations'. Despite these examples, I agree with the grandmother's counsel that, overall, there is a remarkable improvement in T.'s performance from her first term, while she was still residing with the mother, to the end of her third term, by which time she had been residing with the grandmother since March 10. In multiple categories of topic area and performance, T. increased her rating from 'requiring support to meet expectations' to 'meeting expectations', and more frequently to 'exceeding expectations'. It is also telling that there were statements from both T.'s music teacher and her homeroom teacher from the second school term, while she was

presumably still residing primarily with her mother, to T. being late for school, appearing tired, having difficulty focussing and having very slow productivity.

[23] The fourth objective indicator of the grandmother's ability to provide for T., cited by the grandmother's counsel, relates to T.'s recent experience with nightmares since April 2010. According to the grandmother, T. wakes up talking about drowning and stabbing and has trouble going back to sleep. Accordingly, the grandmother deposed that she has enrolled T. in counselling to address the problem. Once again, the mother's counsel quibbled that the mere fact that the grandmother has "enrolled" the child does not mean that she has actually attended any counselling sessions. While that may be technically correct, in the context of the evidence as a whole, the intention is there and I think it likely that, by now, the child has probably begun attendance.

[24] In addition, T.'s maternal great-grandmother deposed that since T. has moved in with the grandmother, she seems happier and healthier, and her self-confidence has improved dramatically. The great-grandmother also lives in the same townhouse complex as the grandmother, and previously lived in the grandmother's home from October 1, 2009 until May 7, 2010. She further deposed that T. has also recently engaged in more playful activity with other children in the neighbourhood and is taking pride in her appearance. While that evidence was generally denied by the mother, it was not specifically controverted; nor was there any suggestion that the great-grandmother was particularly biased or would have provided inaccurate evidence in that regard.

[25] Therefore, in summary, it would appear that the grandmother has demonstrated a significant ability and willingness to provide for T.'s various needs, including her medical,

dental and mental health requirements, as well as her education, which has had a positive impact on T.'s wellbeing.

[26] The mother is also certainly willing to provide for T.'s needs. However, I have four particular concerns about her ability to do so. The first is my conclusion above about the poor state of T.'s dental health and how it is likely that the mother was primarily responsible for that.

[27] Second, I am concerned about the mother's ability to maintain a clean and healthy home. She admits to having experienced a mould problem. Further, when a social worker attended at her home unannounced on March 16, 2010, she directed the mother to leave the residence with the young child, C., "due to safety and hygiene concerns"[1]. I infer that the state of the home must have been pretty deplorable to prompt the social worker to intervene to that extent. While the mother claims to have subsequently cleaned the residence and maintained it in that condition until she moved out, the grandmother's evidence is that a significant amount of cleaning to remove "dirt, mould and grease" had to be done in order to make the premises habitable.

[28] Third, the mother denies that she had any concerns about possibly hurting T. at the time she turned over temporary guardianship to the grandmother. Both the grandmother and the mother's eldest sister, C.B., deposed that this was one of the principal reasons for the mother asking the grandmother to take over guardianship. While the mother has specifically denied the grandmother's allegations in that regard, her denial of her eldest sister's allegations are merely general and non-specific. That is important to me because there is no suggestion that the elder sister, C.B., had any

[1] Affidavit #1 of E.M., para. 3

reason to slant or exaggerate her evidence. C.B. deposed that she was very concerned about T.'s physical safety if she remained living with the mother, and the mother was very clear with C.B. that she was handing T. over to the grandmother because "she was afraid that she would physically hurt [T.]". Further, that allegation is corroborated by portions of an exchange between the mother and C.B. which occurred during a Facebook chat on March 16, 2010. I pause here to indicate that there are several email communications between the mother and C.B. in addition to this particular one, and nowhere in any of them is there a suggestion of animosity between the two sisters which would adversely affect C.B.'s credibility on the point. The relevant portion of the March 16th conversation is as follows:

> "[C.B.]: ok, i am just a little confused... 2 days ago you told me you had to give her to mom for fear you might hurt her ... how did that change so fast?
>
> [M.L.]: because i was talking with my worker who is going to help me through some thing
>
> [C.B.]: maybe you should get that help first then get [T.] back [because] you don't want another problem like this again especially if you feel like hurting the children"

During that conversation, the mother did not specifically deny or respond to the suggestion that she had previously feared hurting T.

[29] It therefore seems likely that the mother had that concern at the time she handed over guardianship of T. to the grandmother, and her current state of denial on the point suggests that she is unwilling to obtain any professional help or counselling that may be necessary to deal with these feelings if they arise in the future.

[30] The fourth concern I have regarding the mother's ability to provide for T. relates to the extensive number of times T. was late or simply missed school while she was living

with the mother. By my count, from the beginning of the school term in 2009 to March 10, 2010, T. had been absent from school 22 times and late 20 times. The mother attempted to explain that the reason for this was that she was experiencing low energy levels during that time due to pre-term labour, and the fact that until mid-March 2010, the baby C. wasn't sleeping consistently. However, I have difficulty accepting that explanation, given that the grandmother only lived five doors away and that it would have relatively easy for the mother to have asked the grandmother for help to ensure that T. got to school on time.

[31] The mother places significant reliance upon the opinions of two employees of the Yukon Department of Health and Social Services, who have no concerns about T. returning to the mother's care. However, I agree with the grandmother's counsel that there is reason to be cautious with this evidence. First, one of these individuals, J.D., is described as a 'Family Support Worker' with the Department, and therefore may not be a fully qualified social worker. In addition, it would seem that her weekly visits with the mother at her residence over the period from October 2009 to May 2010 were all previously scheduled. This would have allowed the mother to prepare the home and T. for the visits, which can be contrasted with the unannounced visit of a social worker on March 16, 2010, when the mother was directed to leave the residence with C. because of safety and hygiene concerns. The other Department employee, E.M., is described as a "Child Protection Worker", by which I assume he is a fully qualified social worker. However, he concedes that he only had a single opportunity to observe the mother and T. together.

[32] Section 30(1)(e) of the *Children's Law Act* refers to "any plans proposed for the care and upbringing of the child". The grandmother has deposed that she plans to continue with the current regime of providing healthy meals for T., tutoring her in certain academic areas, as well as attending to her medical, dental and mental health needs. The mother has not significantly challenged the grandmother in any of those respects.

[33] In her first affidavit, the mother set out an impressive parenting plan about how she proposed to deal with T. if she was returned to her care and custody. At the time that affidavit was sworn on April 26, 2010, the mother's plans included such things as getting T. into counselling through the Healthy Family Program, trying to resolve issues that T. has with some of her teachers at school and working with her assigned social worker, E.M., and her Healthy Family Worker.

[34] However, since swearing that affidavit, the mother deposed that she informed the grandmother on or around July 10, 2010 that she, J.H. and their two children had plans to move to Leduc, Alberta. In her fifth affidavit, sworn July 21, 2010, the mother deposed that she planned to move with her family on August 15, 2010. She said that both she and J.H. were unemployed and had been unable to find work in Whitehorse. Although she hoped that both they would find employment in Alberta, there was no evidence of any particular jobs for either the mother or J.H. being pursued.

[35] Further, such a move would have significantly disrupted several elements of the mother's parenting plan.

[36] Also, the mother chose to move out of her residence in the grandmother's townhouse complex in mid-July, notwithstanding that she was not required to vacate the premises until the end of July. Even though the hearing did not take place until July 26th,

the mother failed to provide any further affidavit evidence on the location or nature of the new housing which she and J.H. subsequently obtained. I only received this information from her counsel at the hearing. Given that the plans for the proposed care and upbringing of the child are a specified consideration leading to a custody decision under s. 30(1) of the *Children's Law Act*, I would have expected the mother to have provided such evidence, as it is obviously important to my determination of the issue.

[37] In addition, it is puzzling to me why the mother would find it necessary to move out of her residence in the townhouse complex she shared with the grandmother some two weeks before she was technically required to vacate those premises and into new housing when she and J.H. planned to move to Alberta about four weeks later. On its face, and without any further explanation by the mother, such actions appear to be haphazard and not particularly well thought out.

[38] Further still, the mother indicated through her counsel at the hearing on July 26th that she had changed her plans by deciding to remain in Whitehorse and attend some form of post-secondary education this fall. Once again, the mother failed to provide any evidence about this whatsoever, other than through her counsel's submission.

[39] While I accepted counsel's submissions on both the mother's change of residence and change of plans regarding the move, the simple fact that both of these changes of status occurred within a few days of the hearing date again indicate to me that the mother's plans for the care and upbringing of T. are presently in a state of flux, at best, and reflect a degree of unmanageability, at worst. That element of unmanageability appears to be consistent with the grandmother's evidence about the mother's continual reliance upon her over the years for parenting assistance, as well as the mother's own

evidence about her frequent need for outside support to help her cope with the stresses of keeping a home and raising a family. My concerns in this regard, at this interim stage of the litigation, are central to my determination that it is in T.'s best interest to continue to reside primarily with the grandmother at this time.

[40] Section 30(1)(f) of the *Children's Law Act* speaks of the permanence and stability of the family unit with which the child will live. For the reasons I have just given, I am satisfied, at this interim stage, that the grandmother's family unit is far more permanent and stable than that of the mother.

[41] Section 30(1)(g) of the *Act* is the final factor in the non-exhaustive list of circumstances which the court must consider. This section speaks of the effect that awarding custody to one party would have on the ability of the other party to have reasonable access to the child. In this regard, I return to my concerns about the mother's somewhat chaotic planning for a move to Alberta. Had I awarded the mother interim custody, and had the move proceeded, it is likely that the T.'s access to the grandmother would have been temporarily, but abruptly, terminated for a significant period of time. The mother indicated in her materials that she would have allowed T. to have access to her grandmother for the months of July and August each year. However, the mother's plans failed to address in any way the probable disruption to T. in uprooting her abruptly from the community in which she was raised since birth, and more particularly, from the residence in which she has been living and thriving for nearly five months.

[42] Although the mother has changed her plans about the move to Alberta, this history does not inspire me with confidence that she might not again change her mind and proceed with a move on short notice. In such event, it is likely that T. again would face

the prospect of an abrupt and significant curtailing of access to her grandmother, with whom she has a positive and nurturing relationship.

[43] On the other hand, there is evidence that the grandmother does not seek to maintain interim custody of T. for a protracted period of time. Rather, she simply wants to ensure that T. has a good and healthy foundation in life and a quiet and stable environment, and that once the mother is able to demonstrate her capacity to provide this, she will relinquish her guardianship of T.

[44] Although the mother has complained about the grandmother's reluctance to allow T. increased specified access since March 10, 2010, to be fair, it also appears that the grandmother has been frustrated by the mother's repeated inability to stick with the existing access schedule. In any event, the grandmother has expressly indicated a willingness to increase access over time, including overnight access, as the mother is able to demonstrate increased stability and reliability.

C.'s access to the grandmother

[45] The grandmother also seeks access to the infant child, C. The mother opposes such access, saying that the grandmother has only visited with C. five or six times since she was born and has no significant relationship with her. The grandmother disputes this. What seems to be undisputed, though, is that T. has a close relationship and significant attachment with her infant half-sister. In her first affidavit, the mother deposed as follows:

> "[T.] loves [C.] and played with her every day when she was living with me. I believe [T.] should grow up with her sister. [T.] has a real strong attachment to [C.], and I believe that bond is to be strengthened, nurtured and developed. The best way to do this is for them to spend significant time together, with me".

[46] I agree that the bond between T. and C. should be fostered and nurtured and that it would be in both of the children's best interests for that to happen. Viewed another way, it would be contrary to both of their best interests if the amount of time they spent together was significantly curtailed by the mother's refusal to allow C. to visit the grandmother. In my view, the mother is being unreasonable in denying C. access to the grandmother, especially in the present circumstances where T. is residing and spending the majority of her time with the grandmother.

[47] Accordingly, I will order that the grandmother be allowed reasonable and generous access to C. at dates and times to be agreed upon between the parties.

CONCLUSION

[48] I conclude that:

1. The grandmother and the mother are awarded interim joint custody of T.;
2. T. will primarily reside with the grandmother;
3. The mother shall have specified access to T. as the grandmother shall determine to be in T.'s best interests. In any event, that access shall include, at a minimum:
    a) each Tuesday from 10 a.m. to 2 p.m. until T.'s school term starts in the Fall of 2010;
    b) each Saturday from either 10 a.m. to 2 p.m. or 12 noon to 4 p.m., whichever is preferable to the mother;
    c) each Sunday from 1 p.m. to 5 p.m.;

4. The grandmother will work with the mother in an attempt to come to joint decisions on important aspects of T.'s upbringing, including such things as her medical, dental and mental health, her education, her social life, and her spiritual life (if that is applicable to T.). In the event that the parties cannot reach joint decisions in these areas, or in any other area of concern affecting T.'s wellbeing, then the grandmother shall be authorized to make the final decision, on a case-by-case basis;
5. C. shall have reasonable and generous access to the grandmother at dates and times to be agreed upon between the parties;
6. In the event that the parties have difficulty negotiating further, mutually satisfactory, specified access to T., or unspecified access to C., either may request a family law case conference before me for the purpose of resolving the issue;
7. The mother shall not remove or pick up T. from her school, unless the grandmother has consented in writing;
8. The grandmother shall receive the Child Tax Credit payable for T., and the mother shall sign all necessary documentation to allow the Child Tax Credit to be transferred to the grandmother;
9. The grandmother shall be entitled to travel with T. without the consent of the mother, although the grandmother shall provide the mother with reasonable notice that she will be travelling with T. as well as an itinerary and contact information; and

10. The grandmother shall be free to apply for a passport for T. without the mother's signature.

[49] As the parties did not speak to costs, I am reluctant to make an order in that regard. If they cannot agree on costs, they may return before me to argue the point.

Gower J.