

Hartley v. Del Pero, [2017] A.J. No. 14

Alberta Judgments

Alberta Court of Queen's Bench

D.C. Read J. Supplementary hearing: January, 2017 by written submissions.

Supplementary judgment: January 10, 2017.

Docket: FL03 03868

Registry: Edmonton

[2017] A.J. No. 14 | 2017 ABQB 14

Between Heather Lynn Hartley, Plaintiff, and Fred Del Pero, Defendant

(7 paras.)

[Editor's note: Original reasons for judgment were released December 29, 2016. See [\[2016\] A.J. No. 1377.](#)]

Counsel

Tracy C. Brown, Fauza Mohamed, for the Plaintiff.

Mr. Fred Del Pero, on his own behalf.

Supplementary Reasons

D.C. READ J.

1 On December 29, 2016, I released a decision reported as *Hartley v Del Pero*, [2017 ABQB 1](#) that determined, among other things, Mr. Del Pero's child support obligations. Following the release of that decision, it came to my attention that I had failed to address the costs of extra-curricular activity costs when considering the arrears owed pursuant to s. 7 of the *Federal Child Support Guidelines*, [SOR/97-175](#). This Supplementary Judgment deals with only with this discrete issue.

2 Ms. Hartley claims over \$70,000 in retroactive s. 7 expenses for extracurricular expenses.

3 However, in respect to extracurricular costs, I have the following comments. In order to be claimable as s. 7 expense, they must be "extraordinary". The marginal notes to the *Child Support Guidelines* define the term "extraordinary expenses" as follows:

(1.1) For the purposes of paragraphs (1)(d) and (f), the term "extraordinary expenses" means

- (a) expenses that exceed those that the spouse requesting an amount for the extraordinary expenses can reasonably cover, taking into account that spouse's income and the amount that the spouse would receive under the applicable table or, where the court has determined that the table amount is inappropriate, the amount that the court has otherwise determined is appropriate; or

(b) where paragraph (a) is not applicable, expenses that the court considers are extraordinary taking into account

- (i) the amount of the expense in relation to the income of the spouse requesting the amount, including the amount that the spouse would receive under the applicable table or, where the court has determined that the table amount is inappropriate, the amount that the court has otherwise determined is appropriate,
- (ii) the nature and number of the educational programs and extracurricular activities,
- (iii) any special needs and talents of the child or children,
- (iv) the overall cost of the programs and activities, and
- (v) any other similar factor that the court considers relevant.

4 In *Krislock v. Krislock*, [1997 CarswellSask 679](#) (Q.B.), McIntyre J considered whether relatively low cost sports equipment should be classified as s. 7 expenses, and concluded they should not. I agree with this assessment. Such items should reasonably be covered by the s. 3 payment. I would put swimming lessons, with their relatively low cost, into the same category as well as fees for dance costumes, soccer try-out fees, hockey dry land training, dance summer camp costs, and community league soccer costs. In general, at the incomes of these parties, as I have found them to be, any extra-curricular expense of less than \$100 is not extraordinary and should reasonably be covered by the s. 3 payment.

5 Additionally, I have noted several claims for personal trainer expenses for boy Del Pero in 2012, 2013 and 2016. No explanation was provided for why these expenses were required or how they related to any special need or talent of the boy. In the absence of any explanation, I disallow these expenses as they appear to be more in the category of a "nice to have" luxury rather than a valid extraordinary expense.

6 Otherwise, all of the remaining s. 7 expenses for extracurricular activities set out in Exhibit 27 are allowed. For clarity, these s. 7 expenses are in addition to the s. 7 expenses itemized at paragraph 200 of my earlier decision. I summarize the allowed s. 7 expenses for extracurricular activities as follows:

YEAR	Extracurricular Expenses
2006	\$702
2007	\$1,550
2008	\$4,372
2009	\$4,018
2010	\$5,388
2011	\$8,544
2012	\$7,932
2013	\$9,905
2014	\$11,846
2015	\$11,748
2016	\$6,426

7 As with the earlier decision, I am unable to calculate the exact arrears owed by Mr. Del Pero. I direct counsel for Ms. Hartley to calculate these arrears and provide the resulting amounts to Mr. Del Pero within one month of receiving the figures from Mr. Boon showing Mr. Del Pero's full grossed-up income.

Dated at the City of Edmonton, Alberta this 10th day of January, 2017.

D.C. READ J.

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