

LEGAL BULLETIN

Issue No. 47

Parental Decision-Making and Child Support in High-Conflict Cases
Gray v. Rossi, 2024 ONSC 6993, 2024 Carswell Ont 20468

Introduction

This case demonstrates the complexities of high-conflict parenting disputes, and how courts balance the best interests of the children with claims for decision-making responsibility and parenting time. In this case, the Ontario Superior Court of Justice addressed issues surrounding parental authority, imputation of income, and child support obligations in the context of a long-standing and contentious legal battle. The court examined both parents' claims for primary residence, parenting time, and financial responsibilities, ultimately making detailed orders to ensure stability for the children.



Case Background

Kyle Gray and Lindsay Rossi began cohabitation in 2008 and separated in 2017. They have two children together: Rylie, born in 2010, and William, born in 2014. Following their separation, the parties engaged in ongoing disputes over custody, access, and financial support. The father brought an application seeking primary residence of the children, decision-making authority (with consultation), and imputation

of income to the respondent mother, Lindsay Rossi, arguing that she was underemployed. The mother, in turn, sought primary residence of William, day-to-day care of Rylie, and child support retroactive to 2018. There were also issues regarding parenting time, transportation arrangements, and allegations of interference with the children's relationships with each parent.

Parental Decision-Making and Parenting Time

The court determined that the father was better suited to provide stability and meet the children's best interests. The ruling granted him primary residence of both children and sole decision-making responsibility, subject to consultation with the mother on major decisions. Rylie was granted discretion to determine her own parenting time with

the mother, while William was given a structured visitation schedule with alternating weekends and designated holidays. The court considered past incidents where the mother had allegedly interfered with the children's relationship with their father and affirmed the importance of fostering positive relationships with both parents.

Parental Conduct and Allegations of Alienation

A key factor in the court's decision was the finding that the mother had engaged in behaviours that undermined the children's relationship with their father. The mother had made allegations of abuse against the father's new spouse, which were found

to be unsubstantiated. Additionally, reports from the Office of the Children's Lawyer noted that the mother had manipulated the children's perceptions of the father, leading to concerns about emotional harm.

Imputation of Income and Child Support Obligations

The court applied the three-part test from *Drygala v. Pauli*,¹ to determine whether income should be imputed to the mother. The test considers:

1. whether a parent is intentionally underemployed or unemployed,
2. whether the underemployment is justified due to health, education, or childcare responsibilities, and
3. what income level should be reasonably imputed based on the parent's earning capacity.

The court found that the mother was intentionally underemployed, citing insufficient medical evidence to support her claim of being unable to work. Given her previous employment as a hairstylist and her capacity to earn, the court imputed an income of \$35,300 to her based on full-time minimum-wage employment. As a result, she was ordered to pay ongoing child support of \$536 per month.

Parental Stability and Living Arrangements

A significant factor in the court's ruling was the determination that the father offered a more stable living environment. While the mother had relocated multiple times and faced challenges with transportation, the father maintained a consistent

home for the children. Recognizing the role of stability in a child's development and well-being, the court favoured the parent who could provide a reliable environment.

Impact of High-Conflict Litigation

The case also serves as an example of the emotional and financial toll of prolonged litigation. Multiple motions, allegations, and non-compliance with court orders contributed to an extensive and contentious

legal process. The court strongly discouraged further conflict, urging both parents to focus on cooperation and the children's well-being rather than engaging in adversarial legal battles.

¹ 2002 CanLII 41868 (ONCA)

Conclusion

The ruling reaffirms the importance of fostering positive parent-child relationships, maintaining stable living arrangements, and ensuring financial transparency. The best interests of the children remained the court's primary concern, leading

to decisive action against parental alienation or manipulation. Additionally, the case reinforces income will be imputed when a parent fails to provide credible evidence of their financial status.

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