Parenting in a Pandemic: Emerging Trends and a Call for Parental Co-Operation

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The Pandemic has created a new set of parenting challenges. People appear to be uncertain about how to address scheduling and exchanges of their children. Some people are unilaterally cancelling parenting time, while others are working together to figure out the best approach. Guidance on how to proceed with parenting issues is surfacing from the Courts as COVID-19 related matters are being determined. The general trend and message from the Court is for people to come up with realistic solutions, co-operate, and engage in less litigation during this time.

Every family is unique. There is not a single correct approach to addressing parenting issues as they arise. However, the Courts are signalling to families that efforts should be focused, at this time, on having discussions and reaching agreements regarding any modifications that may be needed to address specific situational risks[1]. The message is that parents are to act responsibly and problem solve before engaging the Court.[2] This is not a time for a "widespread suspension of in-person parenting time"[3]. Unilateral action, such as withholding parenting time in contravention of a Court Order, is a matter raising to the level of urgency for hearing at this time.[4]

The current environment calls for creative solutions to real issues, with an understanding that these measures are temporary within the overall context of parenting. It is time for parental communication and problem solving. This call for coming up with resolution is that the threshold for hearing parenting matters by the Court at this time is high. The focus is currently on whether the specific parenting concern is immediate, or "currently urgent".[5] Further, the concern is to be serious, not speculative or theoretical, and be supported by evidence.[6]

Some examples of matters reaching the level of urgency for hearing at this time include:

1. One parent suspending the other parent's time with a child in contravention of an Order[7] or Minutes of Settlement[8];

2. A parent refusing to have the children in their care, jeopardizing the employment of the other parent [in this case a nurse][9];

3. A parent requesting to travel with the child, within Canada, to be with their extended family in another province during COVID-19 [which was not permitted][10].

A number of cases are emerging where unilateral action is being taken by a parent. The Courts are being critical of this conduct. A Court recently stated that a parent is "not permitted to simply engage in self help, or to interpret public health directives as a license to terminate parenting time…"[11]. Another decision indicated that "[t]he Court cannot be seen to condone this type of behaviour" in reference to a mother that "engaged in a self-help remedy despite a clear consent Order that was filed a few days ago".[12]

It is important to not lose sight of the fact that parenting conduct taken during this period may be "judged once court operations resume, as not being appropriate nor in the best interests of their children"[13]. While this is a period of turmoil, the message from the Court is for parents to act in a responsible manner, sensitive to COVID-19 issues, and work together to create practical and common sense resolutions to carry the children through this period of time.

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[1] *Chin v. Omeally*, 2020 ONSC 2029, para. 14.

[2] *Ribeiro v Wright*, 2020 ONSC 1829, para. 22

[3] *Chin v. Omeally, supra*, para. 15.

[4] *Chin v. Omeally, supra*, para. 15; *Skuce v .Skuce*, 2020 ONSC 1881, para. 37

[5] *Thomas v. Wohleber,* 2020 ONSC 1965, paras. 37-38

[6] T*homas v. Wohleber, supra*, para. 38.

[7] *Chin v. Omeally*

[8] *Skuce v .Skuce*, 2020 ONSC 1881

[9] *Matour v. Hashemian*, 2020 ONSC 2112, paras . 9-16

[10] *Amirzada v. Alemy*, 2020 ONSC 1979

[11] Ahmadi v. Kalashi, 2020 ONSC 2047, para. 8.

[12] Skuce v .Skuce, 2020 ONSC 1881, para. 36.

[13] Ahmadi v. Kalashi, supra, para. 11, citing Douglas

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