

When Payments Halt Progress: Dispute Resolution Via Parenting Coordination

Canadian courts encourage parents and guardians to resolve conflict other than through court intervention, but some families still need a neutral decision-maker to move forward. Enter the parenting coordinator, an alternative dispute resolution professional retained to help parents build consensus or make determinations. Since a parenting coordinator is paid for by the parties, a situation may arise where one party refuses to pay to prevent the parenting coordinator from making a determination they don't want. The court considered this issue in *T.S.T. v S.Z.T., 2024 BCSC 1723*.

Avoiding Parenting Coordinator Determinations by Failing to Pay Adequate Retainers

Following their 17-month marriage, the parties had been engaged in continuous high-conflict litigation for four years regarding the parenting of their child. The parties worked with a parenting coordinator to resolve matters. However, the respondent failed to pay further retainers and advised the parenting coordinator that she would not continue with her services as the 12-month period had expired. The parties made cross-applications to the court, as they were unable to agree on the selection of a parenting coordinator, the length of the appointment, and the selection of the preschool the child should attend.

The claimant sought to have the parenting coordinator reappointed to assist the parties in resolving the issue of the child's enrolment in kindergarten. The respondent submitted that the parenting coordinator had failed to assist the parties in the selection of a preschool, that she was biased towards the claimant, including allowing him to submit late materials, and that she either acted beyond the scope of her authority or failed to make decisions within the scope of her authority.

The court found that the parenting coordinator's failure to make any preschool determination was attributable to the fact that the respondent failed to pay a further retainer. There was no basis for the respondent's concern of bias and the respondent was not prejudiced. The parenting coordinator had not acted beyond her authority, nor did she fail to make decisions, as she was unable to make any significant changes to a court-ordered schedule.

The associate judge cautioned that the court should be careful not to establish a precedent wherein a party may frustrate orders made related to the appointment of a parenting coordinator for a specific period of time by failing to pay adequate retainers. The respondent had failed to provide any convincing reason for a different parenting coordinator to be appointed and it made no sense to appoint a new one. Since no trial had been set, the court ordered that the parenting coordinator be appointed for a further term aligning with the expected date of trial based on Registry availability.

The claimant sought a fine for the respondent's failure to provide the required retainer to the parenting coordinator but withdrew that application. No order was made.

This case provides an important reminder that the court will discourage behaviors that frustrate dispute resolution processes, including non-payment.



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