

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Holly C. Beard
Madam Justice Jennifer A. Pfaetzer
Madam Justice Karen I. Simonsen

BETWEEN:

CESHA ELIZABETH HEDLEY)	S. N. Rosenbaum	
)	<i>for the Appellant</i>	
)		
)		
	(Petitioner) Respondent)	K. P. Mikos
)	<i>for the Respondent</i>
)		
	- and -)	
)	
)	<i>Appeal heard and:</i>
CORY STEPHEN KONECNY)	<i>Decision pronounced:</i>	
)	January 13, 2026	
)		
	(Respondent) Appellant)	
)	<i>Written reasons:</i>
)	January 23, 2026

On appeal from *Hedley v Konecny*, 2025 MBKB 54

PFUETZNER JA (for the Court):

[1] The respondent (the father) appealed the final order of the trial judge imputing income to him pursuant to sections 16 to 19 of the *Federal Child Support Guidelines*, SOR/97-175 [the *Guidelines*], for purposes of calculating ongoing and retroactive child support for the parties' child born in February 2021. The trial was lengthy—spanning sixteen days over four months.

[2] Both the petitioner (the mother) and the father led expert evidence regarding the key issue of imputation of income to the father in connection with Cannon Services Inc. (CSI)—a corporation in which he was a

shareholder—and Cannon Hydrovac Inc. (Hydrovac)—what the trial judge found to be a non-arm's-length corporation. Although the father incorporated Hydrovac in 2019, by early 2022, his father Stephen Konecny (Stephen) was its sole shareholder and director.

[3] The father's position at trial was that his income came only from CSI and was approximately \$36,000 per year as reflected in his T4. The mother's position was that the father was hiding his income, including through Hydrovac, and that his annual income for calculating child support should be imputed to be in the range of \$1,000,000.

[4] The trial judge carefully reviewed the evidence, including the voluminous expert reports and testimony, and made negative credibility findings against the father and Stephen. She accepted that the income of Hydrovac was available for support and imputed the following income to the father based on what was referred to as Scenario 1A in a report prepared by the father's expert:

Year	2021	2022	2023	2024
Income Imputed	277,997	284,286	267,871	267,871
Monthly Child Support	2,220.58	2,265.86	2,147.67	2,147.67

[5] The father appealed, arguing that the trial judge drew inferences that did not have sufficient support in the evidence. He noted that the trial judge did not have all of Hydrovac's financial documents. This was because Hydrovac failed to comply with an order for production of certain records and

an appeal of that order was pending at the commencement of the trial. Despite this, the parties agreed to proceed with the trial.

[6] After hearing argument, we dismissed the appeal with reasons to follow. These are our reasons.

Analysis

[7] As observed by the Supreme Court of Canada in *Michel v Graydon*, 2020 SCC 24: “Child support awards are highly discretionary, and the hearing judge’s findings and inferences of fact may not be disturbed absent an error on an extricable question of law, a palpable and overriding error, or a fundamental mischaracterization or misapprehension of the evidence” (at para 30).

[8] The father’s primary position on appeal was that the income imputed to him by the trial judge should be reduced to approximately \$184,276 for 2021, \$193,307 for 2022, and \$113,633 for 2023 and 2024 (referred to as Scenario 2B by the father’s expert).

[9] The main distinction between Scenario 2B and Scenario 1A (used by the trial judge) is that Scenario 1A attributes Hydrovac revenue to CSI for 2021 to 2024 based on the trial judge’s finding that approximately \$994,073 was transferred from CSI to Hydrovac at its 2020 fiscal year-end in order to conceal the father’s income (the 2020 transfer), while Scenario 2B excludes the 2020 transfer. Scenarios 2B and 1A also differ in their treatment of a remote living allowance and the father’s personal living expenses paid by CSI.

[10] As is illustrated by the nature of the father's primary argument, the trial judge's decision was highly fact-driven. She was tasked with determining whether imputation of income was appropriate on what was acknowledged to be an imperfect evidentiary record.

[11] In our view, the trial judge was entitled to select Scenario 1A for purposes of imputing the father's income. Moreover, at the appeal hearing, the father conceded that there was no palpable and overriding error in the trial judge's finding that the 2020 transfer occurred to reduce child support. This concession reinforces our view that there is no reason to interfere with the trial judge's decision to rely on the 2020 transfer to attribute Hydrovac revenue to CSI with respect to the following years.

[12] The father raises other issues in his factum that can be disposed of briefly. We are not convinced that the trial judge made any reversible errors in her interpretation and application of the *Guidelines*. Nor do we see any basis to interfere with the trial judge's numerous credibility and factual findings or with her discretionary costs award.

Costs of the Appeal

[13] The mother seeks elevated costs of the appeal of double the amount under Tariff "C" (see MB, *Court of Appeal Rules (Civil)*, Man Reg 555/88R). In support, she moves to introduce further evidence that the father did not seek a stay of the final order pending this appeal and yet failed, until very recently, to take any steps to comply with the final order.

[14] We were advised by counsel at the hearing that the father has paid the monthly child support owing since the date of the final order and claims

to have arrangements in place to bring the payment of arrears up-to-date. He has not paid the trial costs awarded by the trial judge.

[15] We are persuaded that it is in the interests of justice to exercise our discretion to admit the further evidence pursuant to section 26(3) of *The Court of Appeal Act*, CCSM c C240.

[16] In our view, it is just to award the mother costs of the appeal of one-and-one-half times Tariff “C” plus reasonable disbursements to recognize and censure the father’s late and only partial compliance with the final order (see *Ghremida v Elgahwas*, 2023 SKCA 23 at para 64).

Conclusion

[17] For these reasons, we dismissed the appeal with costs at one-and-one-half times Tariff “C” plus reasonable disbursements.

Pfuetzner JA

Beard JA

Simonsen JA