

Date: 20260212  
Docket: FD 13-02-06346  
(Brandon Centre)  
Indexed as: NW v. GT  
Cited as: 2026 MBKB 26

**COURT OF KING'S BENCH OF MANITOBA**  
**(FAMILY DIVISION)**

**B E T W E E N:**

NW,

petitioner, )  
                  ) Self-represented  
                  ) for the petitioner

- and -

GT,

respondent. )  
                  ) Gisele Champagne  
                  ) for the respondent  
                  )  
                  )  
                  ) Judgment delivered:  
                  ) February 12, 2026

**LEVEN J.**

**SUMMARY**

[1] The parties have three children, born in 2012, 2013 and 2017. Pursuant to a 2017 Final Order, the children were spending every second weekend with their father (the Father). The Father is about 57 years old. The oldest now refuses to spend any time at all with the Father. The Father seeks to vary the Final Order to get majority parenting time with the two younger children. He concedes that their mother (the

Mother) should have majority parenting time with and decision-making authority for the oldest child. A family evaluation report recommended that the Mother should have majority parenting time with all children; that the Father should have every second weekend and extended time during school vacations; that the parents should share some decision-making, but that the Mother should have final decision-making regarding health-care issues; and that both parents and all children should obtain counselling.

[2] The Father owns a (mortgage-free) rental property in Brandon, Manitoba, and claims that he has rental income of \$1,000/month. Despite many promises, he has never produced a rent ledger (or a copy of a lease).

[3] The Father used to earn a middle-class salary. At case conferences, the Father claimed that he has mental health issues that prevent him from working. He had no supporting evidence. The case conference judge imputed minimum-wage income to him on an interim basis, and ordered him to pay interim table child support based on this. He paid no child support at all. He now says that he wants majority parenting time (with the two younger children) and that he plans to support his children by collecting the child support that he feels the Mother should pay to him.

[4] Child support arrears were roughly \$55,000 at the end of the trial.

[5] The Mother has sought to take the children for short trips to the United States, but the Father has managed to block these trips for reasons which keep changing. The Mother wishes to have final decision-making authority about travel, including passports.

[6] For reasons explained below, I find that the Mother shall have majority parenting time with all children. The Father shall have parenting time with the oldest child as

may be agreed upon by the parties. The Father shall have parenting time with the other two children every second weekend and for extended time during school vacations (as explained below). The Mother shall have final decision-making authority for all children.

[7] The Mother's income shall be the total income from her income tax returns. The Father's income shall be imputed to be Manitoba minimum-wage income, which will likely increase in future years. The Father shall pay table child support.

[8] The Father shall pay all child support and section 7 arrears as determined by the Maintenance Enforcement Program (MEP).

[9] Because the Father owns a (mortgage-free) property in Brandon, and because he has failed to pay any child support at all in recent years, the property in Brandon shall be sold, with the net sale proceeds being applied to child support arrears, and then to future child support payments. An Associate Judge shall have conduct of the sale.

## **FACTS**

[10] This is not a comprehensive recitation of all evidence and argument; it is a concise summary of certain important matters.

[11] The trial was held on June 16 – 20, 2025 and September 3 - 5, 2025. It was agreed at the end of the final day that both parties would submit final arguments in writing.

[12] At a case conference, the Father's lawyer agreed to write a first draft of an agreed statement of facts. There was no agreed statement of facts.

[13] The Father had a lawyer at trial. He has changed counsel several times. The Mother used to have a lawyer, but is now self-represented.

[14] The parties met in about 2010, separated in 2014, reconciled and separated again in 2016. There may have been other short-term reconciliations.

[15] The court issued an interim order on June 27, 2014 (Registry document #29). At the time there were only two children. It awarded primary care and control (now called "parenting time") to the Mother. The Father would have parenting time at least three or four times a week, to be supervised by the Mother, unless the parties would agree otherwise. It set the Father's annual income at \$56,575.

[16] The court ordered Family Resolution Services (FRS) to do a home assessment report (the 2019 Report), which is dated February 19, 2019.

[17] The 2019 Report recommended that Mother should have final decision-making authority about health, education, activities and religion. It recommended that the parties communicate through a third party (or their lawyers if necessary). It recommended that the Father and the children participate in reunification therapy. When the therapist deemed it appropriate, Father's parenting time would increase to unsupervised time, on alternating weekends, and a midweek evening visit. The 2019 Report recommended that exchanges take place at school or daycare (or at Brandon Access/Exchange Service (BAES) or a public place on non-schooldays).

[18] On April 2, 2019, the court signed a Variation Order (Registry document #64) about parenting time and child support. It gave the Mother majority parenting time ("primary care and control"); it set the Father's 2019 income at \$49,096.55; it ordered

the Father to pay child support of \$919.72/month (plus \$400/month for childcare) until further order of the court. It also ordered the parties to exchange annual income tax returns.

[19] On December 10, 2019, the court issued a final order (Registry document #99). It gave majority parenting time to the Mother. It gave the Father parenting time with the two older children, two nights a week, on dates to be agreed. The youngest child (who was then about two) would eventually transition to a similar schedule. There were other provisions, such as details about the Father's residence.

[20] The parties reconciled again in 2019 and then separated again in 2020.

[21] On about October 3, 2022, the Father filed a Notice of Motion to Vary (Registry document#105). It requested variations to provisions about parenting time, child support, peace officer assistance, and other matters.

[22] On April 23, 2023, the Mother filed a notice of motion to vary (Registry document #114). She requested final decision-making authority, and provisions about exchanges, transportation, police assistance and communication between the parents.

[23] About a decade ago, the Father moved to a different community. The Mother never moved. The Father's new community is about 226 kilometres from the Mother's community. The Mother's community is larger and has more schooling options, such as French immersion. The Father now lives on a farm outside "the Father's community". The farm is not connected to the power grid. It gets electricity from solar panels. It has a woodstove (see below).

[24] At case conferences, the Father claimed that he was unable to hold any paying job for any remuneration. He claimed to be a cattle farmer, and explained that he owned some cattle, but conceded that he never actually sold any cattle. He agreed that he owned a rental property in Brandon and claimed to have rented it to his adult son for \$1,000/month since February 1, 2024. At a case conference, he admitted that he had no rent ledger but when I instructed him to begin keeping one, he promised that he would. He never did.

[25] The Father testified that he has no bank account.

[26] The Father said that he wants majority parenting time with the two younger children. They would go to school in his community. Early in the trial, he admitted that he had not checked with the school to see if they could be admitted as students.

[27] Late in the trial, after many promises, the Father finally provided his draft 2023 and 2024 income tax returns (not yet filed). The draft 2023 return shows total income of \$6.98. The draft 2024 return shows \$7,907.40.

[28] A statement of child support arrears from the Maintenance Enforcement Program (MEP) was filed. It showed arrears of \$54,621.52 as of September 1, 2025. (The total today is unknown).

[29] In his affidavit sworn July 18, 2023, the Father commented on travel to the United States: "The [Mother] wishes to dispense with my consent to international travel with the children. I do not agree with this as I should be informed of where my children are going to be and when they will be returning. Also, I do not want her international travel to conflict with my parenting time of the children. Given that the

[Mother's] partner resides out of country. I have concerns that she will remain out of country for long periods of time. I do not believe that it is unreasonable in the circumstances that the [Mother] provide me with an itinerary inclusive of return dates to Canada prior to me consenting to international travel."

[30] At a later case conference, the Father created new obstacles to the notion of the Mother travelling to the United States with the children. The Mother has a boyfriend/partner in North Dakota. The Father objected that he didn't know the partner's address. The Mother provided it. The Father objected that the partner had a criminal record. The Mother replied that he had one or two very old impaired driving offences. She provided documentation. At the trial, the Father raised a new objection: that one child is transgender, and that Donald Trump has some anti-transgender policies. Of course, the Father had earlier objected to travel while Joe Biden was president.

[31] The Father has never sought any information at all about approximate auction fees for cattle or about the approximate profit he might make by selling all of his cattle. When questioned, he said that he knew a little bit about cattle sales when he was a child, but that he had taken no steps at all to obtain current information.

[32] At one point, the Father could not recall any details about an incident in which his dog bit one child. He said, "my memory is terrible."

[33] The Mother testified that the Father is often late in returning the children after his parenting time.

[34] When asked if he returned the children on time after his parenting time with them, the Father testified that he always did. When asked specifically about July 11, 2025 and August 8, 2025, he admitted that he now can't recall if he returned them on time or not. When asked about August 30, 2025, he claimed that he returned them about five minutes late.

[35] The Father owns two dogs. He said that he gets rabies shots for the dogs, but he claimed that the local veterinarian is not expensive. He provided no documents.

[36] The Father does not communicate with his own parents. The Mother has a good relationship with the Father's parents, and she arranges for the children to see them regularly.

[37] The Father finally got his woodstove inspected. The inspection report is dated March 4, 2025, and confirms that the stove was safe as of that date.

[38] The Father said that a third party wants to buy a portion of the Father's land for \$5,700. He said that this sum is sitting in a lawyer's trust account. He said that the MEP has a lien on the land, so the money cannot be released. He was vague about precisely what steps should be taken to resolve this issue. (As noted, Father has a lawyer.)

[39] Both parties talked about minor medical problems that the children have had over the years. Both feel that the other did not respond adequately to these problems. Both parents focused on minor matters, such as the fact that the youngest child sometimes swears, and the fact that the oldest child is sometimes mean to the other children.

[40] The Father testified about one occasion (on an unspecified date) in which the middle child phoned him and claimed to be locked in the bathroom, and in the middle of having a disagreement with the Mother.

[41] Both parties testified about an exchange at BAES in which the children did not want to go from the Mother to the Father. After that unpleasant incident, BAES put limits on what it would do in the future (i.e. it had no objection if the children went from the Father to the Mother at BAES, but not vice versa).

[42] Late in the trial, the Mother said that the oldest child would now be willing to go fishing with his father as long as his uncle (the Father's brother) were present, and that the Mother would support and encourage this.

#### The Family Evaluation Report (the Report)

[43] As noted, the Report is dated March 26, 2025. I will refer to the author as "ME". ME communicated with both parents and the children, and did home observations (with the children) at both parents' homes. ME also communicated with teachers, Child and Family Services (CFS) workers and workers at the Child and Adolescent Treatment Centre (CATC). The older two children have been counselled by CATC, and both are on medication.

[44] The children spoke to ME about parenting time. The youngest was content with seeing her father every second weekend. She finds it boring at his house. The oldest does not want to spend time with his father at all. He is bored at his father's house, and he is angry at his father for making promises and failing to keep them (e.g. about

going fishing). The middle child is ambivalent and said that they do not care what the court decides about parenting time.

[45] The Report records a number of he-said-she-said accusations by the parents about each other. Very few allegations include dates (or even approximate dates). It is impossible to know whether the alleged event happened before or after the parents' separation. For example, the Father told ME that the Mother tried to run the oldest child over with her vehicle when he refused to go to school. Not surprisingly, the Mother denied that any such thing ever happened. There was no other evidence at all about this particular allegation.

[46] It became obvious to ME that this is a very high-conflict situation.

[47] The Report included information gleaned from a CCAIN (criminal involvement) search for the Father. It showed a "domestic violence matter" from 2004, which ended in an acquittal in 2005. It included a "domestic violence matter" from 2018, which ended in a stay and a peace bond on December 17, 2018. Finally, it included a "criminal harassment" matter from 2023 with a trial scheduled for November 22, 2024.

[48] ME spoke with a CFS worker (YA). YA told ME that, on October 22, 2022, a CFS worker attended the Father's home to address various concerns. The worker saw the woodstove. The Father admitted that the woodstove would not pass an inspection at the time. The Father disconnected the woodstove. On December 9, 2022, the CFS worker again attended the Father's home. The woodstove had not been inspected. On February 10, 2025, YA told ME that the Father does not respond to emails. YA said that the Father's CFS file was open because of safety concerns regarding the woodstove.

CFS's position was that the Father's contact with his children during winter will not happen in his home until the woodstove is inspected. Contact can happen anywhere, but not in the home.

[49] The recommendations are found at pages 27 - 35 of the Report. The Report deals with the relationship between the Father and the oldest child. It says: "[the Father] needs to change his focus from [the Mother] to [the oldest child] and the other children by attending his scheduled parenting time and building trust over time. This could look like engaging in an activity that interests [the oldest child] spending one-on-one time with [the oldest child] in [the Mother's community]. After a period of time, this could lead to [the Father] gaining [the oldest child's] trust, and [the oldest child] may be willing to join the other two children in the scheduled parenting time in [the Father's community]. Although [the oldest child] is only twelve years old, forcing this relationship may be counterproductive." The report also recommends that the Father and all three children receive counselling. It also suggests that both parents would benefit from taking a parenting course on communicating with each other in a child-centered way.

[50] The Report recommends that the Mother should have majority parenting time, and the Father should have every second weekend, plus extended time in the summer and on holidays. It suggests an even-year-odd-year formula for summer, Christmas break and spring break. It recommends that the Mother should be flexible about the possibility of the Father having some times other than every second weekend. It

recommends that the parents should consult with each other about decisions, but that the Mother should have final decision-making responsibility.

[51] ME testified at the trial and defended her recommendations.

#### The Father's health

[52] One of the issues at trial was the Father's income and his ability to do paid employment. This came up at several case conferences. The Father finally filed two letters (dated April 29 and May 16, 2025) from his family doctor (Dr. F). In the April 29, 2025 letter (to MEP), Dr. F wrote that the Father "has suffered from mental anxiety that has been persistent over the last few years. He has symptoms of poor sleep, and agoraphobia that make it difficult to interact in a public setting."

[53] The letter continues: "Another symptom of his mental health was avoidance of any advanced mental health assessments. [The Father] is an intellectual, learned individual that can function for short periods in a social setting, but he has difficulty maintaining social norms without great anxiety overwhelming his interactions. He tends to ruminate on social interactions, affecting his sleep, mood and general functioning at times."

[54] The letter continues: "Over the last year, he has shown signs of improvement in his medical condition. He can function at his homestead and also does well with his visits with his children. He has periods of time when he manages quite well. His anxiety heightens when he has to deal with legal or formal processes...Even the idea of dealing with maintenance enforcement or disability services is anxiety provoking..."

[55] The letter adds that the Father is reconsidering applying for disability and that he has expressed some interest in pursuing more advanced care.

[56] The May 16, 2025 letter (addressed to the Father's lawyer) says that the Father, "has anxiety to a degree that he struggles with many social interactions. He is physically capable of working, however, his mental condition would worsens [sic] significantly once he interacts socially with others...I would support a request for disability. He has found a tenuous stability that working in the work force would most likely significantly disrupt."

[57] The letter continues to say that the Father "had been referred to Dr. [name of doctor], psychiatry, in [name of town] in Mar 2024 without any response. [The Father] was referred to Community Mental Health in 2022. He did see a mental health worker on a few occasions but was unable to establish a trust relationship enough to continue. He has indicated in the last month that he would be open to re-engaging with community mental health and states he will try reaching out on his own before sending another referral."

[58] The Father did not indicate before the end of the trial whether or not he had made an appointment with Community Mental Health.

[59] Dr. F testified at the trial. Dr. F has never spoken with the children. Dr. F is not an occupational therapist or a return-to-work coordinator. Nor is she an expert in respect of the Manitoba labour market.

[60] Dr. F usually meets with the Father by video, approximately monthly. Meetings are about an hour. She first met him in 2019.

[61] Father has tried two medications but has had side effects. He is now "non-trusting" of medication and is not on any medication now.

[62] Dr. F testified that the Father has difficulty dealing with authority. Dr. F testified that financial questions are outside of her scope.

#### Interim orders

[63] I issued a number of Interim Orders at case conferences. As the Mother was self-represented, I asked the Father's lawyer to draft the Orders. After both parties signed them, I would sign them on a desktop basis. Unfortunately, no such Orders ever reached my desktop.

[64] The reason was that the Father's lawyer drafted the Orders with errors, and the Mother refused to sign them. If the Mother had had a lawyer, her lawyer could have drafted a correct version of each order and signed it. Of course, that never happened.

[65] At trial, these draft orders were filed as Exhibits 7, 8 and 9. All had blatant errors in the first paragraph. The first paragraph said that the matter proceeded at the Law Courts at 408 York Avenue, in Winnipeg. Of course, this should have been 1104 Princess Avenue in Brandon.

[66] Exhibit 7 (September 26, 2024) dealt with, among other things, specific dates for parenting time in September 2024 through January 2025.

[67] Exhibit 8 (December 2, 2024) dealt with dates in December 2024 and January 2025, and details about exchanges (pickups by the Father at school on school days, and at the police station in the Mother's community on December 23, 2024; drop-offs by the Father at BAES).

[68] Exhibit 9 (February 5, 2025) dealt with dates in March and April 2025, among other things.

### Witnesses

[69] Some of the witnesses had little or no relevant evidence. For example, witness SS used to date the Father in about 2019, and is now friends with the Mother. She testified that she saw the Father's house at a time when the children were not present, and the house was very messy.

[70] The former principal of the children's school testified. The Father sometimes visited the children at the school. The school let the Mother know. The Father always had access to the children's report cards. Sometimes the school emailed the reports to him.

[71] A number of teachers testified and, among other things, reported on factual matters such as how many times a child was absent and/or late in some past years. These witnesses would not have been necessary if there had been a robust agreed statement of facts.

[72] Other witnesses testified about the children's interactions with the CATC. The Mother cooperated with CATC.

### **LAW**

[73] In ***Donovan v Donovan***, 2000 MBCA 80 ("***Donovan***"), the court dealt with the issue of intentional underemployment or unemployment. At paragraph 21, the court pointed out that, "... as a general rule, a parent cannot avoid child support obligations by a self-induced reduction of income".

[74] In ***Donovan***, at paragraph 18, the court observed:

A decision as to whether a person is capable of earning more income than they are presently earning depends on the context. Fundamentally, the court will impute income in the same fashion that it did before the introduction of the *Federal Child Support Guidelines*. Payor spouses are still entitled to make decisions in relation to their career path so long as those decisions are reasonable at the time they are taken considering all the circumstances.

[75] In ***Donovan***, at paragraph 21, the court set out various guidelines for imputing income. One guideline is:

A Parent's limited work experience and job skills do not justify a failure to pursue employment that does not require significant skills, or employment in which the necessary skills can be learned on the job. While this may mean that job availability will be at the lower end of the wage scale, courts have never sanctioned the refusal of a parent to take reasonable steps to support his or her children simply because the parent cannot obtain interesting or highly paid employment.

[76] In ***Donovan***, at paragraph 25, the court added:

As indicated earlier, the law does not require a finding of bad faith or a finding that there was an intention to evade one's child support responsibilities. Rather, the inquiry is focused on the issue of reasonableness.

[underlining added]

[77] In ***Donovan***, at paragraph 34, the court concluded:

Courts have considered a variety of factors in an attempt to determine an individual's capacity to earn. They have considered factors such as job history, age, education, skills, health, standard of living when the parties were married and available job opportunities. ...

[78] In ***Donovan***, after separation, one spouse unilaterally decided to pursue a new career as a screenwriter. At the time of the trial, he had not yet earned a penny from the new career, and had no concrete prospects for ever earning any money from the

new career. Not surprisingly, the court concluded that the new career was unreasonable. The court imputed an income to the screenwriter based on his previous experience and credentials.

[79] ***Peters v Atchooay***, 2022 ABCA 347 (CanLII) was also about imputing income. At paragraph 81, the court observed that, "it is generally assumed that a child will benefit from more income and not less."

[80] In ***Elliot v. Loewen***, 1993 CanLII 16261 (MB CA) ("***Elliott***"), there was an order about what we now call "parenting time" made when a child was 18 months old. When the child was three, there was an application to vary. At paragraph 4, the appeal court held that the "motions judge was entitled to take judicial notice of the fact that the needs of a 3-year-old in relation to his father are different from the needs of an 18-month-old child." At paragraph 6, the court added that the "needs of a child in relation to each of his parents change frequently over the years from infancy to adulthood."

### Family Law Act

[81] Relevant sections of ***The Family Law Act***, CCSM c F20 ("***FLA***") include:

<b>Best interests of the child</b>	<b>Intérêt supérieur de l'enfant</b>
<b>35(1)</b> The court must only consider the best interests of the child in making a parenting order, a contact order or a guardianship order.	<b>35(1)</b> Le tribunal tient uniquement compte de l'intérêt supérieur de l'enfant lorsqu'il rend des ordonnances parentales, des ordonnances de contact ou des ordonnances de tutelle.
<b>Primary consideration</b>	<b>Considération principale</b>
<b>35(2)</b> When considering the factors referred to in	<b>35(2)</b> Lorsqu'il tient compte des facteurs prévus au

subsection (3), the court must give primary consideration to the child's physical, emotional and psychological safety, security and well-being.

paragraphe (3), le tribunal accorde une attention particulière au bien-être et à la sécurité physiques, affectifs et psychologiques de l'enfant.

### **Factors to be considered**

**35(3)** In determining the best interests of a child, the court must consider all of the factors related to the child's circumstances, including the following:

(a) the child's needs, given the child's age and stage of development, such as the child's need for stability;

(b) the nature and strength of the child's relationship with each person who has or is seeking parental responsibilities or contact with the child or who is a guardian or seeks guardianship of the child, as well as with siblings, grandparents and any other person who plays an important role in the child's life;

(c) the willingness of each person seeking parental responsibilities, guardianship or contact with the child to support the development and maintenance of the child's relationship with other persons to whom the order would apply;

(d) the history of care of the child;

(e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;

(f) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous

### **Facteurs à considérer**

**35(3)** Le tribunal tient compte de l'ensemble des facteurs liés à la situation de l'enfant en vue de déterminer ce qui est conforme à son intérêt supérieur. Il se fonde notamment sur les facteurs suivants :

a) les besoins de l'enfant, dont son besoin de stabilité, compte tenu de son âge et de son stade de développement;

b) la nature et la solidité des rapports de l'enfant avec chaque personne qui a ou qui cherche à avoir des responsabilités parentales à l'égard de l'enfant ou des contacts avec lui ou qui est son tuteur ou qui cherche à le devenir, ainsi que de ses rapports avec ses frères et sœurs, ses grands-parents et toute autre personne ayant un rôle important dans sa vie;

c) la volonté de chaque personne qui cherche à avoir des responsabilités parentales à l'égard de l'enfant ou des contacts avec lui ou sa tutelle afin de favoriser le développement et le maintien de ses rapports avec les autres personnes auxquelles l'ordonnance s'applique;

<p>upbringing and heritage;</p> <p>(g) any plan for the child's care;</p> <p>(h) the ability and willingness of each person in respect of whom the order is to apply to care for and meet the needs of the child;</p> <p>(i) the ability and willingness of each person in respect of whom the order is to apply to communicate and cooperate, in particular with one another, on matters affecting the child;</p> <p>(j) any family violence and its impact on, among other things,</p> <p>(i) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child, and</p> <p>(ii) the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on matters affecting the child;</p> <p>(k) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child.</p> <p>...</p>	<p>d) l'historique des soins qui sont apportés à l'enfant;</p> <p>e) sauf s'ils ne peuvent être établis, le point de vue et les préférences de l'enfant, compte tenu de son âge et de son degré de maturité;</p> <p>f) l'éducation et le patrimoine culturels, linguistiques, religieux et spirituels de l'enfant, notamment s'ils sont autochtones;</p> <p>g) tout plan concernant les soins prodigués à l'enfant;</p> <p>h) la capacité et la volonté de chaque personne visée par l'ordonnance de prendre soin de l'enfant et de répondre à ses besoins;</p> <p>i) la capacité et la volonté de chaque personne visée par l'ordonnance de communiquer et de collaborer, en particulier entre eux, à l'égard de questions concernant l'enfant;</p> <p>j) la présence de violence familiale et ses effets sur, notamment :</p> <p style="margin-left: 20px;">(i) la capacité et la volonté de toute personne ayant infligé de la violence familiale à prendre soin de l'enfant et à répondre à ses besoins,</p> <p style="margin-left: 20px;">(ii) la pertinence d'une ordonnance qui nécessiterait une collaboration entre des personnes visées par l'ordonnance à l'égard de questions</p>
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	concernant l'enfant;
	k) toute instance, ordonnance, condition ou mesure, de nature civile ou pénale, pertinente quant à la sécurité ou au bien-être de l'enfant.
	...
<b>Variation of parenting order</b>	<b>Modification de l'ordonnance parentale</b>
<b>39(1)</b> The court may vary, suspend or terminate a parenting order on application by	<b>39(1)</b> Le tribunal peut modifier une ordonnance parentale, la suspendre ou la révoquer sur requête de l'une des personnes suivantes :
(a) a parent;	a) un parent;
(b) a person standing in the place of a parent who has parental responsibilities under an order; or	b) une personne tenant lieu de parent qui a des responsabilités parentales au titre d'une ordonnance;
(c) a person standing in the place of a parent who does not have parental responsibilities under an order, if there is leave of the court.	c) s'il l'autorise, une personne tenant lieu de parent et à laquelle aucune ordonnance n'attribue de responsabilités parentales.
<b>Factors</b>	<b>Facteurs</b>
<b>39(2)</b> Before making a variation order, the court must be satisfied that the child's circumstances have changed since the original order was made or last varied.	<b>39(2)</b> Avant de rendre une ordonnance de modification, le tribunal doit être convaincu que la situation de l'enfant a changé depuis le prononcé ou la dernière modification de l'ordonnance initiale.
...	...
<b>Duty of parents to provide support for child</b>	<b>Obligation alimentaire des parents envers leurs enfants</b>
<b>57(1)</b> Each parent of a child has a duty to provide reasonably for the child's support, whether or not the	<b>57(1)</b> Tout parent a l'obligation de pourvoir

parent has parenting time or decision-making responsibility with respect to the child.

...

raisonnablement aux aliments de son enfant, qu'on lui ait attribué ou non du temps parental ou des responsabilités décisionnelles à son égard.

...

### **Application to vary, suspend or terminate order**

**61(1)** On application, a court may vary, suspend or terminate a child support order or a part of it, and it may do so prospectively or retroactively.

### **Modification, suspension ou révocation d'une ordonnance**

**61(1)** Sur requête, le tribunal peut, par ordonnance, modifier, suspendre ou révoquer, rétroactivement ou pour l'avenir, l'ensemble ou une partie d'une ordonnance alimentaire au profit d'un enfant.

### **Factors in making an order**

**61(2)** Before making an order under subsection (1), the court must be satisfied that a change of circumstances as provided for in the child support guidelines has occurred since the original order was made or last varied.

### **Facteurs à prendre en compte**

**61(2)** Avant de rendre une ordonnance en vertu du paragraphe (1), le tribunal doit être convaincu qu'un changement de situation au sens des lignes directrices sur les pensions alimentaires pour enfants est survenu depuis le prononcé de l'ordonnance initiale ou sa dernière modification.

### **Child support guidelines apply**

**61(3)** A court making a variation order must do so in accordance with the child support guidelines, and the order may include any provision that under this Part could have been included in the original order.

### **Application des lignes directrices sur les pensions alimentaires pour enfants**

**61(3)** Dans le cadre de ses ordonnances modificatives, le tribunal applique les lignes directrices sur les pensions alimentaires pour enfants et il peut accorder toute mesure qu'il aurait pu prévoir, en vertu de la présente partie, au

le moyen des ordonnances initiales correspondantes.

### The Family Support Enforcement Act

[82] Relevant sections under ***The Family Support Enforcement Act***, CCSM c F26 ("**FSEA**") include:

<b>Various enforcement actions</b>	<b>Mesures d'exécution</b>
<p><b>40</b> In addition to any other enforcement actions that may be taken, the director may do one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) issue a support deduction notice under section 44 and take any action that may be taken to enforce payment in accordance with the notice;</li> <li>(b) take steps to obtain a garnishing order under The Garnishment Act;</li> <li>(c) under section 52, <ul style="list-style-type: none"> <li>(i) notify the support payor that action may be taken under section 273.1 of The Highway Traffic Act, or</li> <li>(ii) issue a request for action to be taken under section 273.2 of The Highway Traffic Act;</li> </ul> </li> <li>(d) apply under section 53 for a court order to preserve assets;</li> <li>(e) register a lien in the Personal Property Registry under section 55;</li> <li>(f) register the support order in a land titles office under section 57 and take any action that may be taken under The Judgments Act to enforce the registered order;</li> <li>(g) take steps to obtain a writ of</li> </ul>	<p><b>40</b> Outre les autres mesures d'exécution dont il dispose, le directeur peut prendre une ou plusieurs des mesures suivantes :</p> <ul style="list-style-type: none"> <li>(a) délivrer un avis de retenue des aliments en vertu de l'article 44 et prendre toute mesure pouvant être prise pour recouvrer les sommes visées en conformité avec l'avis;</li> <li>(b) prendre des mesures pour obtenir une ordonnance de saisie-arrêt en vertu de la Loi sur la saisie-arrêt;</li> <li>(c) en vertu de l'article 52 : <ul style="list-style-type: none"> <li>(i) soit aviser le débiteur alimentaire que des mesures peuvent être prises en vertu de l'article 273.1 du Code de la route,</li> <li>(ii) soit demander par écrit que des mesures soient prises en vertu de l'article 273.2 du Code de la route;</li> </ul> </li> <li>(d) présenter une requête en conservation de l'actif en vertu de l'article 53;</li> <li>(e) enregistrer un privilège auprès du Bureau d'enregistrement des sûretés relatives aux biens personnels en vertu de l'article 55;</li> <li>(f) faire enregistrer l'ordonnance</li> </ul>

execution under The Executions Act;	alimentaire auprès d'un bureau des titres fonciers en vertu de l'article 57 et prendre toute mesure permise par la Loi sur les jugements pour exécuter l'ordonnance enregistrée;
(h) apply under section 58 for the appointment of a receiver to take action as permitted by that section;	(g) prendre des mesures pour obtenir un bref d'exécution en vertu de la Loi sur l'exécution des jugements;
(i) apply under section 59 for an order declaring assets over which the support payor exercises authority subject to attachment and execution;	(h) demander, en vertu de l'article 58, la nomination d'un séquestre chargé de prendre les mesures que prévoit cet article;
(j) issue a notice under section 66 requiring the support payor to appear before the director;	(i) présenter, en vertu de l'article 59, une requête en saisie-exécution de l'actif sur lequel le débiteur alimentaire exerce une autorité;
(k) issue a summons under section 67 requiring the support payor to appear before a judge or associate judge for a hearing under that section;	(j) assigner le débiteur alimentaire à comparaître devant lui en vertu de l'article 66;
(l) provide a personal reporting agency, as defined in The Personal Investigations Act, with information indicating that the support payor is in default under the support order but, despite clause 4(e) of that Act, without providing the address of the support recipient;	(k) assigner le débiteur alimentaire à comparaître devant un juge ou un juge adjoint en vertu de l'article 67 pour être interrogé en conformité avec cet article;
(m) take steps to have the support order enforced in another jurisdiction;	(l) remettre à un bureau d'enquête privé, au sens de la Loi sur les enquêtes relatives aux particuliers, des renseignements indiquant que le débiteur alimentaire est en défaut au titre de l'ordonnance alimentaire, sans toutefois communiquer l'adresse du créancier alimentaire à ce bureau, par dérogation à l'alinéa (4)e) de cette loi;
(n) take any steps that may be taken under a federal law to enforce payments under a support order.	(m) prendre des mesures pour faire exécuter l'ordonnance alimentaire à l'extérieur du Manitoba;
	(n) prendre les mesures prévues par une loi fédérale pour recouvrer des paiements au titre d'une ordonnance alimentaire.

## Court of King's Bench Rules

[83] Relevant ***Court of King's Bench Rules***, Man Reg 553/88 (the "***Rules***")

include:

AWARD AND FIXING OF COSTS BY COURT	ADJUDICATION ET FIXATION DES DÉPENS PAR LE TRIBUNAL
<p><b>Factors in discretion</b></p> <p><b>57.01(1)</b> In exercising its discretion under section 96 of The Court of King's Bench Act, to award costs, the court may consider, in addition to the result in the proceeding and any offer to settle made in writing,</p> <ul style="list-style-type: none"> <li>(a) the amount claimed and the amount recovered in the proceeding;</li> <li>(b) the complexity of the proceeding;</li> <li>(c) the importance of the issues;</li> <li>(d) the conduct of any party which tended to shorten or lengthen unnecessarily the duration of the proceeding;</li> <li>(d.1) the conduct of any party which unnecessarily complicated the proceeding;</li> <li>(d.2) the failure of a party to meet a filing deadline;</li> <li>(e) whether any step in the proceeding was improper, vexatious or unnecessary;</li> <li>(f) a party's denial or refusal to admit anything which should have been admitted;</li> <li>(f.1) the relative success of a party on one or more issues in a proceeding in relation to all matters</li> </ul>	<p><b>Pouvoir discrétionnaire du tribunal</b></p> <p><b>57.01(1)</b> Dans l'exercice du pouvoir discrétionnaire d'adjudication des dépens que lui confère l'article 96 de la Loi sur la Cour du Banc du Roi, le tribunal peut prendre en considération, outre le résultat de l'instance et une offre de transaction présentée par écrit :</p> <ul style="list-style-type: none"> <li>a) le montant demandé dans l'instance et le montant obtenu;</li> <li>b) le degré de complexité de l'instance;</li> <li>c) l'importance des questions en litige;</li> <li>d) la conduite d'une partie qui a eu pour effet d'abréger ou de prolonger inutilement la durée de l'instance;</li> <li>d.1) la conduite d'une partie qui a compliqué l'instance inutilement;</li> <li>d.2) le défaut d'une partie de déposer un document dans le délai imparti;</li> <li>e) une mesure prise dans l'instance qui était irrégulière, vexatoire ou inutile;</li> <li>f) la dénégation, par une partie, d'un fait qui aurait dû être reconnu ou son refus de reconnaître un tel fait;</li> <li>f.1) le fait qu'une partie ait eu gain de</li> </ul>

put in issue by that party;	cause à l'égard d'une ou plusieurs questions en litige dans une instance compte tenu de l'ensemble des questions qu'elle a soulevées;
(g) whether it is appropriate to award any costs or more than one set of costs where there are several parties with identical interests who are unnecessarily represented by more than one counsel; and	g) l'opportunité de condamner aux dépens d'une ou de plusieurs instances, s'il y a plusieurs parties qui ont des intérêts identiques et qui sont représentées inutilement par plus d'un avocat;
(h) any other matter relevant to the question of costs.	h) les autres facteurs pertinents à la question des dépens.

## **ARGUMENT**

[84] We ran out of trial time, and both parties wished to be efficient, so we agreed that both parties would file final arguments in writing, by agreed-upon deadlines. Father's lawyer filed no legal argument at all. Nor did she write to the court to ask for an extension of her filing deadline.

[85] During the course of the trial, the Father commented that he would agree that the Mother should have majority parenting time with the oldest child, but that he should have majority parenting time with the other two children.

[86] He commented that, if he gets majority parenting time with the younger two children, he will make ends meet by collecting the Canada Child Benefit (CCB) and the child support that the Mother will pay to him.

[87] As the Father filed no closing argument, I will assume that would have made the maximum arguments possible, consistent with what he said at trial. I will interpret his position as being that he is not deliberately underemployed (although he didn't use these precise words), and I will interpret his comments to mean that he feels that he

should pay no child support (because the total income on his income tax return puts him below the child support “floor”), and that all his child support and section 7 arrears should be remitted (written off). I will also interpret his comments about his future plans to mean that he feels he should pay no section 7 expenses in the future (as long as the total income on his income tax returns continues to be near-zero).

[88] I will interpret the Father’s testimony about travel to the United States to mean that his position is that the children must not travel to the United States at all. Therefore, I interpret his position as being that he (not the Mother) should have final decision-making authority about international travel.

[89] I will interpret his comments about how he would make ends meet if he had majority parenting time as meaning that his position is that the Mother should pay to him table child support based on the total income from her income tax returns.

[90] I will interpret his comments (or silence) in respect of his Brandon rental property as meaning that he should not be ordered to sell that property.

[91] I will interpret his position on costs as being that the Mother should pay tariff costs to him.

[92] The Mother filed a written argument as agreed. She agreed with the Father that she should have majority parenting time with the oldest child (with the Father having such parenting time as may be agreed). She argued that she should have majority parenting time with the other children, with the Father having every second weekend and extended time on school breaks. For summer, she would prefer 10-days-on-10-

days-off, with the Mother having at least the first few days and the last few days of the summer. The Mother should have final decision-making authority.

[93] The Mother feels that the Father is deliberately underemployed, and that his income should be imputed at \$60,000/year. (She did not explain why \$60,000 is the appropriate number; it appears to be a round number a bit higher than his former total income). He should pay table child support accordingly. He should pay half of section 7 expenses. The existing child support arrears should not be remitted (written-off). The Brandon property should be sold, with an Associate Judge having conduct of the sale, and the net sale proceeds being applied to child support and section 7 arrears, and to future child support and section 7 expenses.

[94] The Mother argued that she should get elevated costs.

## **DECISION**

[95] It is safe to say that there have been at least a few material changes in circumstances since the last court order was issued. Among other things, all the children are older, and their situations have evolved significantly (see **Elliott**). In the months before the trial, the oldest child did not want any contact at all with the Father. (Late in the trial, the Mother said that the oldest child would be willing to go fishing with his father as long as his uncle were present, and that the Mother would support and encourage this.). The Father had to face criminal charges. The Father became a self-described cattle farmer. The Father began to rent out his Brandon property for rental income. These are all changes in circumstances.

[96] The fact that the Father has paid no child support at all in recent years; that he has not filed his recent income tax returns; and that there are now apparently large child support arrears, is also a material change.

[97] Much of the decision turns upon the issues of credibility (and to a lesser extent reliability). In general, I found the Mother to be extremely credible and very reliable. Of course, it is not surprising that she could not remember trivial details about things that happened a long time ago.

[98] The Mother was never evasive. She did not contradict herself. I know that courts have warned about over-reliance on demeanor but, for what it is worth, her demeanor was consistent with sincerity.

[99] The Father was often evasive. Indeed, several times his own lawyer interrupted his answers in order to focus him on the question put to him. To be blunt, this is not a common occurrence.

#### "Rent receipts"

[100] I was also troubled by Exhibit 32 - the Father's "rent receipts". As noted, during several case conferences, the Father promised to file a rent ledger at the next case conference. He never did. At the trial, as at the case conferences, he claimed that his tenant (his adult son) paid him \$1,000/month rent from February 2024 onwards. At the trial, he was cross-examined about his rent ledger. He promised (under oath) that he would supply it after the next recess in the trial. He never did.

[101] Late in the trial, he supplied Exhibit 32. The receipts that formed this exhibit were the sort of standard blank receipts that one might buy from an office supply store.

Such receipts often come with carbon paper so that a copy of each receipt is made when the receipt is made.

[102] Each receipt had a space in which to write the receipt number. The 20 receipts were numbered (in handwriting) from one to 20. In her closing argument, the Mother said she observed the Father write out these receipts in the courtroom during the trial. Of course, closing argument is not evidence.

[103] That being said, I found it odd that the 20 receipts were numbered from one to 20. It is theoretically possible that the Father (as landlord) never issued any receipts other than the rent receipts, so those receipts were correctly numbered from one to 20. It is more likely that the Father manufactured the "rent receipts" in the middle of the trial, and that he did not actually hand them to his tenant one month at a time. If the Father had produced some rent receipts at case conferences, and more receipts at trial, that might have suggested that the receipts were genuine. I will not go so far as to say that the receipts are complete fabrication. I will simply say that the question of the receipts does not bolster the Father's credibility.

#### Trips to North Dakota

[104] I am also concerned about the Father's refusal to allow the Mother to take the children on short, scheduled trips to North Dakota, and his explanations for his position. As noted above, the Father deposed in a 2023 affidavit that he was concerned that the trips might interfere with his parenting time and that he wanted to get an itinerary in advance before consent to a trip. The Mother has a partner/boyfriend in North Dakota and wishes to visit him with children occasionally.

[105] At the February 5, 2025 case conference, the issue of travel was discussed. The Father raised two new objections: 1) that he didn't know the North Dakota boyfriend's address; and that he believed the boyfriend had a criminal record. The Mother replied that she had no problem sharing the address (and would email it to the Father's lawyer ASAP), and that the boyfriend had two impaired driving offences about 25 years ago, and no other "criminal" record. She would undertake to find documents to prove this. In my case conference memo, I wrote: "If [the Mother] provides the boyfriend's address, a document showing has no criminal record (other than the two old DUIs), and proposes exact dates, [the Father] will not unreasonably withhold his signature. I am disappointed that the parties have not resolved this issue on their own."

[106] In my May 12, 2025 case conference memorandum, I observed that the issue had still not been resolved, but that there was not enough time at the case conference to deal with it further.

[107] At the trial, the Father raised a creative new objection to the concept of letting the children visit the United States. The Father explained in court that he does not want the children visiting the United States while Donald Trump is president. He pointed out that one of the children identifies as transgender, and that Trump has taken anti-transgender positions. The Father pointed out that the Brandon School Division no longer takes school trips to the United States.

[108] It is not my role to pass judgment on the Trump presidency. I will simply say that the Father's comments about Mr. Trump would be more credible if the Father had

not strenuously objected to letting the children travel to the United States while Joe Biden was president.

[109] In short, I am forced to conclude that the Father has never been honest about the issue of travel to the United States. For reasons of his own, he does not want to allow the children to travel to the United States. He has invented one excuse after another to justify his baffling position. As soon as the Mother provides an ironclad answer to each objection, the Father invents a new excuse to block any international trips.

[110] As for reliability, the Father candidly admitted that his memory was "terrible".

[111] In short, where the Mother's evidence diverges from that of the Father, I accept the Mother's evidence as more credible and reliable.

#### Parenting time

##### The oldest child

[112] Both parties submitted that it would be appropriate for the Mother to have majority parenting time with oldest child, and for the Father to have such parenting time as the parties might agree. The Mother testified candidly that she tries to persuade the oldest child to spend some time with his father. After a break in the trial, she testified that the oldest child agreed to go fishing with his father as long as his uncle (the Father's brother) could go with them. The Mother thought this would be a great idea. Of course, in order to make this happen, the Father will have to commit himself to a specific time, arrive on time, and end the visit at the time previously agreed upon.

[113] In short, the evidence at this time suggests that the oldest child does not want to cut his father out of his life. I am convinced that the Mother will take all reasonable steps to encourage reconciliation between the oldest child and the Father. However, the Father will have to cooperate. No doubt, reconciliation will have to happen in stages, with third parties such as the uncle being present at first, perhaps eventually leading to daytime visits for specific activities, perhaps eventually leading to overnight visits. The long-term goal would be for the oldest child to see his father on approximately the same schedule as the younger children.

[114] Therefore, I am prepared to rule that it would be in the best interests of the oldest child for the Mother to have majority parenting time with him, and for the Father to have such time as may be agreed upon. I encourage both parents to be creative and flexible.

#### The other children

[115] As for the other two children, both attend French-immersion school in the Mother's community and both have friends at their current schools. French-immersion is not available at the school in the Father's community.

[116] The Mother argued that her community is larger than that of the Father, so that favours her parenting proposal. It is true that larger communities do have more facilities than smaller ones. For example, a larger community might have a full-sized hospital, a mall, a bowling alley and a public swimming pool. A smaller centre might lack these facilities.

[117] However, many Manitoba children have very happy, healthy childhoods in small communities. Where one parent lives in a larger community and one lives in a smaller community, and the parents both want majority parenting time, it would be unreasonable to automatically favor the parent who happens to live in the larger community. (There may be rare exceptions, where a child requires specialized medical care that is only available in one location.)

[118] Although both parents fixated on physical injuries that the children have incurred over the last several years (e.g. a cut requiring stitches, a dog bite, a minor burn), I find that both parents have adequate judgment and common sense to deal with any first aid requirements that might arise in future years. This is not the decisive factor in allotting parenting time.

[119] The Father emphasized the mental health challenges that the two older children have had. I am satisfied from the evidence, including the Report, that the Mother has behaved reasonably in dealing with the children's challenges. For example, she has cooperated closely with CATC when appropriate. It is a reality that children of good conscientious parents sometimes encounter mental health challenges. Parents are not miracle workers. As long as they respond to the challenges appropriately, they are doing their jobs.

[120] My primary concern with the Father's ability to parent on a full-time basis has more to do with less tangible factors, such as maturity, self-awareness, self-discipline and organizational skills. Children usually participate in organized activities (e.g. the oldest child plays soccer). To register a child in organized activities, one must often do

so before a deadline. Well-intentioned parents who miss deadlines might find themselves out of luck. More accurately, their children will be out of luck. As children grow older and enter high school, they have more course options, which often involve deadlines for choosing certain courses.

[121] Children's other routine needs often involve making and keeping appointments (e.g. dental cleanings). If one arrives late enough at an appointment, one sometimes is forced to reschedule. As children grow older, they encounter other deadlines (e.g. for driver's education).

[122] Although he was reminded at every case conference to share his 2023 income tax return (and then his 2024 return), the Father never did. He never shared them at the start of the trial. He finally shared draft returns late in the trial. I don't know if he ever filed them. I have already commented about his (non-existent) rent ledger. I have already commented about how he never provided any medical documents about his ability to work until the final case conference, even though this was a crucial issue at all case conferences.

[123] The Father testified that he has no bank account. It may be possible to raise children without having a bank account in this day and age, but I can foresee tremendous obstacles. For example, the Father claimed that he could afford to have majority parenting time with the two older children by collecting the CCB and by collecting the child support that the Mother would pay him. To my knowledge, the CRA does not pay the CCB by cash. If a court were to order the Mother to pay child support, she would have the option of paying by cheque or electronic funds transfer

(EFT). In other words, the Father would need a bank account. Apparently, he has not thought this through. At least he gave no evidence at trial that he has thought this through.

[124] The Report commented about the Father's woodstove. Even when CFS made it clear that the stove had to be formally inspected and that CFS felt it would be unsafe for the children to be present in winter months until the stove was inspected, it still took Father years to get the inspection done. As noted, the inspection report was dated March 4, 2025.

[125] During the first part of the trial (June 2025), the Father testified about his desire to have the children attend school in his community. Because he lives in a rural area, the children would have to be transported to the nearby town for school. The Father had not yet bothered to find out any information about school buses (i.e. would they pick up the children from his residence).

[126] During the second part of the trial (September 2025) the Father finally testified that he had obtained the information, and that the school bus would pick up the children at his residence. When the trial began, the expectation was that it would be finished in June. If it had finished in June, the court would not have known at the end of the trial if school busing was available in the Father's community.

[127] At various case conferences, Father commented about his intention to sell some of his cattle. He never did. During the first part of the trial (June 2025), the Father expressed his intention to sell some cattle over the summer. At the second part of the trial (September 2025), he admitted that he had not sold any cattle. Furthermore, he

had not taken the trouble to find out any information at all about approximately how much profit he might make by selling any of his cattle. He did not even have a rough estimate. He had not bothered to do anything at all to obtain concrete information. This, despite the fact that he knew that his income would be a crucial issue at the trial.

[128] I am also sceptical about the notion that one can make a living selling cattle these days without a bank account.

[129] To be blunt, the Father has a truly terrible track record of not doing important things in a timely manner. As long as his parenting time has only been every second weekend (plus extended time on school vacations), his baffling inability to do important things in a timely manner has not had serious negative implications for the children (putting aside the issue of child support, which is addressed below).

[130] However, a parent who wants majority parenting time with two young children must demonstrate at least a basic level of maturity, self-awareness and ability to do important things in a timely manner. Sadly, the Father's track record suggests that he is often not such a parent. I find that it would not be in the best interests of the children to give the Father majority parenting time.

[131] Similarly with decision-making authority. Making sound decisions for young children often involves an ability to make those decisions on time (before deadlines). For example, many parents arrange for their children to get an annual flu shot. Having good intentions about the flu shot is not enough. If a parent dithers and procrastinates for 12 months (or even for eight or nine months) about getting the shot, the issue becomes academic. The good intentions become useless.

[132] Therefore, I am forced to conclude that it would be in the best interests of the children for the Mother to continue to have majority parenting time with (and final decision-making authority for) the two younger children. She should make reasonable efforts to obtain the Father's input about major decisions, and she should provide concise information without undue delay about decisions that have been made (e.g. the annual flu shot).

[133] I found the Report to be very persuasive and I found ME to be very thoughtful, objective and dispassionate. In court, she was never evasive and never contradicted herself. Her demeanor was consistent with sincerity. It would be in the best interests of the children for the Father to have parenting time with the younger two children every second weekend, or as may be otherwise agreed upon in writing. I expect both parties to be courteous and flexible.

[134] I did not find the Father's excuses about travel to North Dakota to be credible or reasonable. At trial, the Father raised his concerns about the Donald Trump presidency. I note again that the Father kept finding other reasons to object to the children's travel when Joe Biden was president.

[135] The Mother's decision-making authority shall include all decisions about travel during the Mother's parenting time. The Mother shall not require the Father's signature on any passport or travel documents for the children. If either parent takes the children outside of Manitoba during their own parenting time, they shall share a written itinerary in advance. (To be clear, there is nothing wrong about the Father taking the children to places like Saskatchewan or Ontario during his parenting time.)

[136] In the absence of closing argument from the Father, I will accept the Mother's very reasonable written proposals for parenting time during school breaks. The parties may amend any or all of these proposed dates by advance written agreement. In some future years, one or more children might attend a summer camp, perhaps for an extended period. If that happens, the parents will have to be flexible.

[137] Exchanges will be as proposed in the Mother's closing argument. The places and times may be amended by advance written agreement. "Agreement" does not mean "unilateral proposal". If there is no agreement, the existing arrangements must continue.

[138] As noted above, the Father's signature will not be required on passport and similar documents.

[139] The Father has pointed out that he now does all the driving between the two communities, for exchanges. He requested during the trial that the Mother do some of the driving. The Mother pointed out that the Father made the unilateral decision to move from the Mother's community to the community in which he now lives. He should accept the consequences, including the driving.

[140] I will not order the Mother to drive the children to the Father's community. However, I will encourage her to voluntarily consider the possibility of driving to a mutually acceptable location somewhere between the two communities, at least on some occasions. I encourage both parties to be reasonable in pursuing this option.

#### Father's income

[141] The 2019 Variation Order set the Father's 2019 income at \$49,096.55.

[142] The 2019 Final Order required the Father to pay child support. He eventually stopped paying. At case conferences he argued that he was too disabled to work. At the March 12, 2024 case conference, having received no documentation at all stating that the Father was medically incapable of working, I imputed minimum wage income to the Father on an interim basis, and ordered him to pay table child support accordingly. It was \$606/month at first.

[143] Manitoba minimum wage increased over time. It has been \$16/hour since October 1, 2025. At the next several case conferences, the Father filed no new medical documentation.

[144] Between triage and trial, Father never paid any child support. He continued to claim (at the case conferences and at trial) that he had rental income of \$12,000/year (gross) from February 1, 2024 onwards. He never filed a 2024 income tax return. I don't know if he has filed one as of today. Late in the trial, he filed a draft 2024 return showing his 2024 income as \$7,907.40. Of course, I have no evidence about the Father's 2025 or 2026 income.

[145] The Mother accused the Father of deliberate unemployment or underemployment. There is no dispute that he used to earn a significant annual income (until May 8, 2018).

[146] As noted, as of the end of the trial, the Father had not yet filed his 2023 and 2024 income tax returns.

[147] The Father's only counterargument was that his mental health condition precludes him from earning enough income to pay any child support. He says he earns

\$1,000 (gross) from his rental property. He claims that he will eventually make some profit from selling some of his cattle. Despite the fact that this trial was impending and continuing, he never bothered to sell any cattle or to seek any concrete information about the approximate profit he would make from selling any or all of his cattle.

[148] His family doctor (Dr. F) did not diagnose him with any specific illness (e.g. amnesia, oppositional defiant disorder, etc.) She wrote that he had "symptoms of agoraphobia". She mentioned anxiety. She wrote that he "has periods of time when he manages quite well." Dr. F testified that he does not respond well to authority. He is sometimes anxious.

[149] Immaturity, lack of self-awareness, poor self-discipline, poor organizational skills and poor judgment do not, in and of themselves, constitute a mental illness. At least there was no admissible evidence indicating that they do.

[150] Dr. F is not an occupational therapist or a return-to-work coordinator. Nor is she an expert in respect of the Manitoba job market.

[151] As of the trial, the Father had not yet filed his 2023 and 2024 income tax returns. His failure to file returns might have precluded him from collecting GST rebates and "carbon tax" rebates (while they still existed). If he had collected these credits, they could have been used to pay child support. Dr. F did not try to explain why the Father could not have filed his 2023 and 2024 income tax returns.

[152] Dr. F did not try to explain why the Father could not have sold any cattle as of the trial. Recall that he had been promising to sell some cattle for many months before the trial. Profit from cattle sales could have been used to pay child support.

[153] In light of the factors summarized in *Donovan*, I find that the Father has been deliberately underemployed. His choices have been unreasonable. (Although this is not an “employment” issue, his decision not to file income tax returns has also been unreasonable.)

[154] In theory, being a small-scale cattle farmer in Manitoba might be a reasonable employment choice. There is no evidence before me about what sort of annual income the Father could make if he behaved reasonably in terms of maintaining a small herd of cattle and selling cattle every year. In the absence of better evidence, I am prepared to impute Manitoba minimum wage income to the Father. At \$16/hour, this is now \$33,280/year. He shall pay table child support accordingly. (If and when his “total income” exceeds minimum wage income , his “total income will be used” to calculate table child support.) His income will automatically increase if and when Manitoba minimum wage increases. In the future, he shall pay table child support accordingly.

[155] In the future, the parties shall share most section 7 expenses on an equal (50-50) basis. In order to minimize conflict and future litigation, if an expense is less than \$50, the parent who incurs that specific expense shall pay 100% of that specific expense. For expenses above that *de minimis* threshold, the parent who incurs the expense shall provide a receipt to the other parent by email or by hard copy, without undue delay. As a matter of practical advice, if a parent provides a hard copy, they shall keep a copy (i.e. they shall not give away their only copy of a document).

[156] The parties may agree to a “ledger” system. So, if the Mother’s expenditures are usually larger than the Father’s, the parties may offset the smaller expenses against the

larger, and agree that the Father will pay the difference to the Mother. I encourage the parties to consider this pragmatic option. I anticipate that the Father will have to open a bank account. I encourage him to do so on an urgent basis.

Child support arrears; future child support

[157] As of the end of the trial, child support arrears were about \$55,000. I don't know what they are today. I see no reason to remit (write off) any arrears. The Father did not make any final arguments on this (or any other matter). The arrears would have been smaller if the Father had behaved reasonably (e.g. by filing income tax returns and by selling at least some cattle during the last two years).

[158] As for the practical question of how the Father will pay any arrears still owing, I accept the Mother's sensible argument that the Father's Brandon rental property shall be sold; that an Associate Judge shall have conduct of the sale; that the net sale proceeds shall be applied first to child support (and section 7) arrears and then (if funds remain) to future child support and section 7 payments. If funds remain after paying all arrears, MEP shall treat the balance as a credit in respect of future payments. If this creates any practical problems for MEP, I remain seized for the limited purpose of adjudicating the logistics and mechanics of the issue.

[159] If any funds still remain after the youngest child has turned 18 (putting aside the question of post-secondary education if any), they may be refunded to the Father when the time comes. I rely on the **FSEA**. The Mother will likely have to retain a lawyer on a limited-retainer basis to draft this portion of the Order (indeed, to draft the entire Order).

[160] Although the evidence on this point was a bit unclear, it appears that the Father used to have bail conditions that he not contact the Mother or come near her residence. At the case conferences, the Mother said she had no desire to attend near the Father's residence. She did ask for mutual prevention orders under the **FLA** (neither party to attend within 200 metres of the other's residence). During the case conferences, I made this order on an interim basis.

[161] There is no evidence suggesting that the 200-metre clause has to remain in effect forever. Protection Orders under the **Domestic Violence and Stalking Act**, C.C.S.M. c. D93 (**DVSA**) typically have three-year terms. The Father made no closing arguments. The Mother did not make any alternative arguments about a time limit. Therefore, I have no choice but to choose a reasonable round number. The 200-metre clause shall expire about two years from now. In order to avoid possible disagreement, I specify that it will expire on March 1, 2028. After that, both parties have inherent rights under the **DVSA**.

#### Other

[162] The Order arising from this decision shall include a standard MEP clause; a standard recalculation clause; a standard clause that both parties shall exchange annual income tax returns and notices of assessment; and a standard peace officer assistance clause.

#### The \$5,700 sitting in trust

[163] The Father said that \$5,700 is currently sitting in a lawyer's trust account. This sum apparently came from a third party who wishes to buy a portion of the Father's

land. The sale apparently cannot be finalized because MEP has a lien on the Father's land. The Father didn't specify exactly what must be done to allow this money to be released. The Mother (who of course is not a party to this would-be sale) had no specific submissions. It would be desirable if this money could be used to pay child support arrears and/or ongoing child support. Perhaps some portion of the money has to be used to pay legal fees. Lacking more details, I cannot make any specific order at this time. Perhaps the Mother will retain a lawyer. I will remain seized if the parties wish to make concrete submissions about this narrow issue.

#### Counselling

[164] The Mother has ensured that the children receive appropriate counselling when required (e.g. with CATC). I strongly encourage her to continue doing so. The Father meets (at least by video) with his family doctor about once a month. This should continue as long as the Father and the doctor feel it is beneficial. However, this counselling has not solved some of the Father's major problems. I would encourage him to seek out additional counselling (which need not be with a medical doctor) with the goals of improving his self-awareness and developing the self-discipline required to do things like paying child support without delay.

#### Costs

[165] As the Mother was successful in respect of virtually every disputed issue, she is entitled to at least ordinary (tariff) costs. Although she ended the litigation as a self-represented litigant, she began the litigation with a lawyer.

[166] The **Rules** in respect of costs state that the court is entitled to consider conduct by parties that unnecessarily lengthened or shortened the litigation, and that the court may consider missed filing deadlines [Rules 57.01(1)(c) and (d.2)]. The Mother had to make a motion and to get an interim order to force the Father to get to triage. Several times, the Father failed to file case conference briefs. This fact made the case conferences less efficient and less likely to resolve any issues even on an interim basis.

[167] There should have been at least a few agreed facts (which would have shortened the trial). At the May 12, 2025 case conference, it was agreed that the Father's lawyer would do a first draft of an agreed statement of facts – she never did.

[168] Further, not only did the Father's lawyer miss her deadline for filing her closing argument; she never filed one at all. I will not usurp the function of the Law Society, but the failure to file any final argument at all raises many questions. In any event, I conclude that it should have cost implications. The trial dealt mostly with parenting time and, to a lesser extent, with child support. Therefore, Class 3 on the tariff will be used. Therefore, the Father shall pay tariff costs (Class 3) plus \$500, payable forthwith.

[169] As a practical matter, the Mother will likely have to retain a lawyer on a limited retainer basis, to draft the Order arising out of this litigation. The Mother will be entitled to tariff costs for getting this Order drafted. If there is any uncertainty about quantum of costs, I remain seized for the limited purpose of determining quantum.

[170] As the Father's lawyer couldn't be bothered to file a closing argument, and as the Mother should be spared any additional delays, I dispense with the signature of the

Father's lawyer on the Order. Of course, the Father is entitled to receive a copy of the Order without undue delay.

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J.