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LAWYERS

I WILL JUST QUIT MY JOB, SO I DON'T HAVE TO PAY CHILD SUPPORT!

By: Sharon Binning



When couples who have children separate, child support is usually payable by the parent with whom the children do not live to the custodial parent. The amount of child support payable is determined in accordance with the Child Support Guidelines and the payor's gross annual income. Except for situations of split or shared custody, the income of the custodial parent is not usually relevant.

There are circumstances when a Judge may impute income to a payor parent and order child support based on the imputed income even though the parent is not actually earning that income. One of these circumstances is if a Court determines that the parent is intentionally unemployed or underemployed.

Intentionally Unemployed:

If a Court determines that a payor parent intentionally terminated his/her employment, it is likely that the Court will impute the parent with income equal to that earned prior to the termination. This could also include a situation where a parent is terminated from their employment as a result of misconduct.

Underemployed:

A Court may also impute a payor parent with income if they determine that the parent is "underemployed." This may include situations where a parent is working part-time or a situation where a parent leaves a higher paying job for a lower paying job. Each parent has a duty, if they are healthy, to seek employment. Parents are expected to make the best use of their skills, education and experience to earn sufficient income to support their children. Parents cannot avoid their child support obligations by intentionally reducing their income.

Other Circumstances Where A Court May Impute Income:

There are several other circumstances where a Court may impute income including when:

- (a) the parent is exempt from paying federal or provincial income tax;
- (b) the parent lives in a country where the income tax rates are significantly lower than those in Canada;
- (c) the parent is not reasonably utilizing their property to generate income;
- (d) the parent has failed to provide his or her income information;
- (e) the parent unreasonably deducts expenses from their income;
- (f) a significant portion of the parent's income is received from dividends, capital gains or other sources that are taxed at a lower rate or exempt from tax; and
- (g) The parent is a beneficiary under a trust or a will and is or will receive income or other benefits from the trust.

This list is not exhaustive. Your lawyer can help you to determine if there are other circumstances which would justify imputing your ex-spouse with income for child support purposes.