

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MONAVETTE L. GAIR,
Petitioner

: NO. 99-21,732

vs.

: Domestic Relations Section

: Exceptions

SHIRLEY GAIR,
Respondent

:

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of March 6, 2000 in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard May 24, 2000.

Respondent contends the hearing officer erred in her determination of Petitioner's income, in her determination with respect to the obligation to pay support, in failing to consider her job-related traveling costs, and in the determination of her income.

With respect to Petitioner's income, as Petitioner has no legal obligation to support the children, the Court agrees with the hearing officer's assessment of a zero income/earning capacity.

With respect to the hearing officer's determination of Respondent's obligation to pay child support, Respondent contending that she has an Order of Custody for the children but that the children choose to reside with Petitioner, such is a custody issue and not a support issue. As the children are actually residing with Petitioner, Respondent does have an obligation to pay support to Petitioner.

With respect to Respondent's job-related travel expenses, the Court does agree with Respondent that some consideration should be given. Although Respondent presented evidence of her mileage for the months of October, November and December 1999, and indicated that as a plumber and pipe fitter working through the Union, she must travel to

various locations throughout the State, the hearing officer refused to give her any consideration as she did not have gas receipts. The information presented by Respondent at the hearing indicates that for those three (3) months she traveled an average of 2,101 miles per month. The Court will subtract 864 miles per month, representing twenty (20) miles each way which a person not traveling extensively to and from work might have to travel, multiplied by 21.67 days per month. Respondent therefore may be considered to travel an excess of 1,236 miles per month. Considering an average of twenty (20) miles per gallon and a cost of \$1.40 per gallon of gas, the Court finds Respondent incurs an additional expense of \$86.00 per month. This will be subtracted from her income for purposes of child support.

With respect to Respondent's income, the Court again agrees with Respondent that the income considered by the hearing officer is inaccurate. The hearing officer considered the year-to-date figures on a February 2000 pay stub but had available to her the 1999 W-2. No evidence of record exists to justify using only eight (8) weeks where an entire year is available. Considering the 1999 W-2 and allowing the \$18.00 per month Union dues cost, Respondent has a monthly net income from employment of \$1,499.00. Subtracting the \$86.00 per month excess traveling expense and adding the \$288.00 per month income tax refund provides her with a monthly net income of \$1,701.00.

Considering Respondent's income of \$1,701.00 per month, the guidelines call for a child support payment for the support of three (3) minor children of \$693.00 per month and for the support of two (2) minor children of \$587.00 per month.

ORDER

AND NOW, this day of May, 2000, for the foregoing reasons the Family Court Order of March 6, 2000 is hereby modified with respect to paragraph #1 thereof to reflect the support amounts calculated above, that is, \$693.00 per month for the support of three (3) minor children from December 3, 1999 through January 7, 2000 and \$587.00 per month for the support of two (2) minor children effective January 8, 2000. Paragraph #2 of the Order of March 6, 2000 is also modified to provide that Petitioner shall be responsible for the first

\$250.00 per calendar year of unreimbursed medical expenses for each child in her custody and that Respondent shall be responsible to contribute 100% of the excess unreimbursed medical expenses (in excess of \$250.00 per calendar year per child).

As modified herein, the Order of March 6, 2000 is hereby affirmed.

By The Court,

Dudley N. Anderson, Judge

cc: Family Court
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Hon. Dudley N. Anderson