IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CHRISTINE LORSON, Petitioner	:	NO. 00-20,261
	:	Domestic Relations Section
vs.	:	Exceptions
DOUGLAS LORSON, Respondent	:	

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order of March 28, 2000 in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard July 5, 2000.

In her exceptions, Petitioner contends the hearing officer erred in calculating her income, in reducing the daycare expense to consider the tax credit, and in calculating Respondent's income. These will be addressed in order.

With respect to Petitioner's income, at argument, counsel stipulated the hearing officer's figure was incorrect and that the correct figure is $1,554.00 per month net.

With respect to the daycare expense tax credit, this exception is based on the hearing officer's statement regarding Petitioner's income being more than $1,600.00 per month, but as the correct figure is $1,200.00 per month,[1] the exception is without merit.

Finally, with respect to Respondent's income, Petitioner contends the hearing officer erred in failing to consider overtime. The evidence indicated that Respondent worked considerably more overtime in 1999 than in previous years and the hearing officer based his income on a pay stub which did not contain any overtime. A review of

[1]The hearing officer may have been considering that Petitioner has a second child, not the subject of the instant Order, but even so, Petitioner's gross income is more than $1,600.00 per month.

the transcript indicates Respondent did carry his burden of proving that use of his 1999 overtime would have been unfair, but it does appear that some overtime should be considered, based upon his past history. This Court requested a copy of his 1998 income tax return but was unable to calculate from that return the overtime worked in 1998. Even after inquiring of counsel into his hourly rate in 1998, the 1998 W-2 provided still did not make it possible to figure his 1998 overtime. The Court has concluded the only fair way to address the matter is by a remand at which time both parties may introduce evidence of Respondent's prior overtime history.[2]

ORDER

AND NOW, this day of July, 2000, for the foregoing reasons, Petitioner's exceptions #1 and #3 are hereby granted and exception #2 is hereby denied. The matter is hereby remanded to the Family Court Office for further proceedings consistent with this Opinion.

By The Court,

Dudley N. Anderson, Judge

[2]Furthermore, although the Court was inquiring into 1998 only, a review of the transcript indicates that Respondent has worked for this company for nine (9) years, not two (2) years as was stated in the Family Court Order, and therefore delving into prior years may be appropriate as well.