

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EMJ-K,	: NO. 89-20,231
Plaintiff	:
	:
vs.	:
	: CIVIL ACTION - Law
JRK	: Custody
Defendant	:

OPINION AND ORDER

Before the Court is a Contempt Petition brought by Defendant, JRK against Plaintiff, EMJ-K arising out of a stipulated Order dated March 16, 2000. The parties entered into a rather confining provision that reads as follows:

“Both parties agree that the custody Order of August 25, 1998 be modified to include that both parents be permitted to have first option to care for their child, N, when either party needs a caretaker for more than one hour. The party needing a caretaker and having custody of the minor child must contact by telephone the party not having custody to allow them first refusal to care for the child.”

While the Order is constructed in such a manner to invite problems, it is not this Court’s function to pass judgment on such an Order, but rather, to determine whether the Order was intentionally violated. Defendant points out that from time to time, the child is in the care of his uncle for more than one (1) hour and that sometimes this occurs while Plaintiff is at work. Plaintiff has defended the case on the basis that she did not call Defendant because she did not need a caretaker in those instances. Plaintiff is a self-employed beautician with her own shop. Plaintiff apparently has added a play room onto her shop, so that her son can accompany her to work and be occupied while she tends to her trade. Plaintiff further claims that she does not ask or solicit in any way the uncle to take care of N, but rather, the uncle, who has always had a very close relationship with his nephew stops by from time to time to visit N. Often times he will invite N to go with him for

some activity and N accepts. Testimony by the child's uncle confirms this arrangement.

Since this is a matter of civil contempt, the Court must strictly construe the language of the stipulated Order. In this instance, Defendant was unable to rebut the testimony of mother and the uncle sufficiently to overcome reasonable doubt.

Accordingly, the Court must deny the Motion for an Adjudication of Civil Contempt.

ORDER

AND NOW, this 20th day of November, 2000, for the reasons more particularly stated in the foregoing Opinion, the Defendant's Petition for an Adjudication of Civil Contempt is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: Patricia A. Bowman, Esq.
Janice Ramin Yaw, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson