

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

E MK, : NO. 99-20,273
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
F W, III, :
Respondent :

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order of September 22, 2000 in which Respondent was directed to pay child support for the parties' two (2) minor children. Argument on the exceptions was heard November 29, 2000. Petitioner contends the hearing officer erred in failing to assess Respondent an earning capacity based upon his prior employment, alleging that he lost that employment due to his own fault.

At the hearing in Family Court, Petitioner introduced into evidence documentation which shows that Respondent did indeed lose his prior employment through fault of his own. The hearing officer therefore should have assessed Respondent an earning capacity based on that prior employment, rather than considering his current, lower income.

In the previous Order, dated January 21, 2000, Respondent's income from his prior employment at Shop Vac was found to be \$1,193.58 per month. In the Order dated September 22, 2000, Respondent was determined to have received a tax refund averaging to \$41.33 per month. Respondent therefore has a total income available for child support of \$1,235.00. Considering Petitioner's income of \$1,083.00 per month and Respondent's income of \$1,235.00 per month, the guidelines require a payment for the support of two (2) minor children in the amount of \$415.00 per month. Also considering Petitioner's child care expense of \$130.00 per month, Respondent is

obligated under the guidelines to contribute \$69.00 per month, for a total payment of \$484.00 per month.

ORDER

AND NOW, this 30th day of November, 2000, for the foregoing reasons, the Family Court Order of September 22, 2000 is hereby modified to provide for a payment, effective June 2, 2000 through August 7, 2000, of \$415.00 per month, and effective August 8, 2000, for a payment of \$484.00 per month. In addition, the percentage responsibility toward excess unreimbursed medical expenses shall also be modified to provide that Respondent shall be responsible for 53.28% of such and Petitioner shall be responsible for 46.72% of such.

As modified herein, the Order of September 22, 2000 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: E K
F W
Family Court
Domestic Relations
Gary Weber, Esq.
Hon. Dudley N. Anderson