

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KW, : NO. 98-21,251
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
MW, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated January 15, 2002, in which his request for modification of his child support obligation was denied. Argument on the exceptions was heard March 13, 2002.

Respondent contends the hearing officer erred in finding no substantial change in circumstances with respect to Respondent’s income, and in failing to consider the increase in Petitioner’s income. With respect to Respondent’s income, the hearing officer found Respondent to have a monthly net income of \$2,059.00 based on a period of sixteen (16) weeks presented by Respondent at the hearing. The hearing officer compared that figure to a figure of \$2,090.00, purportedly the figure upon which Respondent’s current child support obligation is based. Respondent is correct in his assertion the hearing officer referred to the wrong figure in making the comparison. While the exceptions Order dated July 6, 2001 does mention the figure of \$2,090.00, further reading indicates the support obligation is actually based on an income of \$2,347.85.¹ The Court believes, however, the hearing officer was correct in finding no substantial change in circumstances in spite of these figures, as the figure of \$2,059.00 per month does not present an

¹ This includes both the pay stub figure as well as a tax refund. The use of the 16-week pay stub figure of \$2,059.00 alone would not, therefore, be a valid comparison.

accurate picture of Respondent's monthly net income. While Respondent did present a print out from his employer showing sixteen (16) weeks of wages earned in 2001, he also presented his final paycheck for that year, the year-to-date figures thereon covering a period of forty-two (42) weeks, Respondent having been laid-off during ten (10) weeks in 2001. That pay stub indicates a monthly net income of \$2,216.00, after consideration of his actual tax liability, which has been estimated based upon his 2000 tax return and the exemptions, deductions, and credits thereon. The Court does not consider a decrease from \$2,347.85 per month to \$2,216.00 per month a substantial decrease worthy of review.

With respect to considering any increase in Petitioner's income, since Respondent did not raise the issue in his Petition for Modification and since the issue which was raised, a decrease in his income, did not justify a review, the hearing officer did not err in failing to consider any increase in Petitioner's income. The Court notes for Respondent's benefit that the increase is calculated by the Court at 2%, after consideration of her reduced income tax refund.

ORDER

AND NOW, this 19th day of March, 2002, for the foregoing reasons, Respondent's exceptions are hereby denied and the Order of January 15, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

Cc: Family Court
Domestic Relations
KW
ME
Gary Weber, Esq.