

2020 ONSC 1927
Ontario Superior Court of Justice

HADLEY v. HADLEY

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Ryan James Hadley (Applicant) and Pamela Hadley (Respondent)

Madsen J., In Chambers

Judgment: March 27, 2020

Docket: FC-175-20

Counsel: Brent Balmer, for Applicant
Pamela Hadley, Respondent, for herself

Subject: Civil Practice and Procedure; Family

Headnote

Family law

Madsen J., In Chambers:

1 AS A RESULT OF COVID-19 the regular operations of the Superior Court of Justice operations have been suspended at this time, as set out in the Notice to the Profession dated March 15, 2020 available at <https://www.ontariocourts.ca/scj/covid-19-suspension-fam/>. In accordance with that Notice, only *urgent matters* are being heard at this time.

2 The Notice of the Chief Justice provides that “urgent and emergency” matters shall continue to be heard by the Superior Court of Justice during the suspension of operations due to COVID-19, and that urgency is “as determined by the presiding justice.” The Notice specifies that such matters may include requests for urgent relief relating to the safety of any child and urgent issues related to the wellbeing of a child. This preliminary determination of urgency is an exercise of judicial discretion.

3 For the reasons set out below I am making the preliminary determination that this matter is urgent and should be referred to a judge for determination.

4 In accordance with the Regional Notice to the Profession dated March 24, 2020, materials were filed electronically by the Applicant father, Ryan James Hadley. He asks that the court make an order, on an urgent basis, for validation of service of the material on the Respondent mother Patricia Hadley, by email; custody of the parties’ infant child; and supervised access to the mother.

5 This matter was referred to me as Triage Judge for a determination of urgency and of how this matter should proceed.

6 I confirm that the preliminary determination of urgency is intended to be simple and expeditious, recognizing the summary nature of the determination; and that any determination of potential urgency is wholly without prejudice to either party on the ultimate hearing of the motion.

7 Once referred, the judge hearing the motion may determine whether the matter will be heard in writing or whether a hearing by teleconference may be required. If a hearing by teleconference is required, the date and time will be set by the Trial Coordinator and the parties will be advised by email. Any self-represented party should obtain legal advice *before* that teleconference hearing if they intend seek counsel.

8 The Court has been advised that *legal information* may be available to individuals who qualify, through the Law Society of Ontario at the following phone numbers: Toll-free: 1-800-268-7568; General: 416-947-3310. If the mother qualifies, she may also wish to contact the Client Service Centre of Legal Aid Ontario at 1-800-668-8258.

9 For this preliminary determination, the following materials were served and filed by email:

a. A Notice of Motion dated March 26, 2020.

b. Affidavit of Ryan James Hadley, sworn March 23, 2020.

c. Affidavit of Cheryl Uttley, sworn March 26, 2020, regarding service of Application and blank form 35.1 on the mother on March 20, 2020 and further service on March 23, 2020;

d. Affidavit of Service indicating that the Notice of Motion and the Affidavit were served on the Respondent mother on March 26, 2020 by email.

10 In summary, the father's materials set out the following facts from his perspective. The court does not yet have the benefit of the mother's perspective.

a. The parties are the parents of a three-month old infant, T.V.H., born [Omitted] ["the child"]. The baby is currently in the father's care.

b. The father deposes that the mother has serious mental health issues for which she receives medication. That medication was reduced when she was pregnant with the child.

c. The father deposes that the mother experienced a serious mental health event eight days after the child was born, which resulted in her hospitalization between February 25 and March 4, 2020.

d. The father states that the mother's symptoms include irritation and agitation that can quickly lead to anger; difficulty focusing on childcare tasks; rapid mood changes; erratic behavior such as leaving the home at 3:00 a.m. while the child is crying, later saying she was not aware the child was crying at that time.

e. The father states that on March 15, 2020, the mother became intensely angry, and the father followed the hospital discharge plan to assist the mother in calming herself. The mother fled the home by vehicle. The father called the police. The mother went to her parents' home in Mississauga and has since declined to attend medical appointments. The father is concerned that the mother's parents do not appear interested in following the medical advice.

f. The father is very concerned that the mother's behavior may endanger their three-month old baby, given her lack of follow through with medical treatment. He states that the mother is prescribed Olanzapine and Lurasidone, both of which are anti-psychotic medications, but he is not aware of whether she is consistently taking this medication.

g. In the circumstances, the father feels that an order for sole custody and an order for supervised access would protect the child.

11 The assertions set out by the father bear directly on the safety and well-being of a very young child. Although arguably the child is currently safe in the father's care while the mother is staying with her parents, I find that the following issues are

potentially urgent at this time:

- a. The determination, on a temporary basis, of the residency of the child.
- b. The determination of parenting time for the mother and, if so, any conditions which may be appropriate to ensure the safety and well-being of this infant.

12 These issues are urgent because *if the father's evidence is accepted* by the motions judge, it would be essential that the baby's residence be stable and that the mother not be able to disrupt that residency. It would also be essential that terms be put on the mother's time with the baby. The father's evidence has, of course, not been accepted at this stage.

13 In my view, a determination of the "custody" of the child is not required on an urgent basis, subject to the determination of the judge ultimately hearing the motion.

14 On the basis of the foregoing, I make the following order:

1. This matter shall be referred to the Trial Coordinator for assignment to a judge to hear the motion.
2. Service of the father's materials by email to the mother is hereby validated.
3. The mother shall have until **April 2, 2020** to serve and file responding materials; she may serve the father's counsel by email at *brent@koskybalmer.com*; and she shall file her materials at *Kitchener.Superior.Court@ontario.ca*.
4. The judge hearing the motion may determine whether written materials will suffice or whether a hearing by teleconference will suffice, and the parties will be advised by email through the Trial Coordinator.
5. If the mother is intending to obtain legal advice she should do so in advance of any hearing by teleconference.