

Interprovincial relocation with children

Relocating with children after a divorce or a breakup can sometimes be challenging, not only because of the sudden change in residence, workplace, school and friends, but also because the children's other parent is often resistant and hesitant towards the relocation of the children.

Divorced or separated parents cannot be expected to always reside in the same town or province just because they have children together. Having children together does not bind you to a town or place; any parent can move to a different place as desired or necessary. With this being said, where does it leave the remaining parent, especially those who will not relocate with the children?

Parents are mostly co-holders of parental rights and responsibilities; only in exceptional circumstances will this not be the case. As co-holders of parental rights and responsibilities, they share the critical role of making decisions in the children's lives. A significant decision included in their rights as parents is the decision to relocate. Accordingly, there is an expectation that both parents should discuss and decide on any possible relocation together. This has proven to be a near-impossible task.

Circumstances regarding any parent's decision to relocate will differ. Due to this, the Children's Act does not explicitly require consent of the other parent to relocate. Instead, the Children's Act understands that consent will often be refused, which should not always stop relocation from occurring. The Act instead requests each parent to give due consideration to any views and wishes expressed by the other parent.

After giving due consideration to the other parents' concerns and wishes, the children should also be allowed to express their views, if they are mature enough to understand the impact of the relocation. One should remember that the intention is to hear the child's voice and wishes, not to leave the choice to relocate in their hands.

The Act furthermore requires the parents to consider the impact of the relocation on the children and the contact they will exercise with the parent who remains

behind. New contact arrangements must be made to ensure that the children retain a bond with the other parent. Often, the new contact arrangements also include a complicated discussion regarding the additional costs that will be incurred to make the contact possible.

Lastly, and most importantly, the parents must consider the children's best interests, as this will ultimately decide whether or not the relocation should occur.

But what would happen if a parent unilaterally decides to relocate with the children, without consulting the other parent? The parent who was not consulted or considered would have the following recourse:

1. If they know the relocation is in the children's best interest, they can request proper communication from the other parent. They can also ask to negotiate a parenting plan. They can request a mediation session wherein all aspects can be addressed, and further decisions can be made together.
2. If the relocation is not in the children's best interest, they can approach the court to stop it.
3. If they are uncertain whether the relocation is in the children's best interest, they can appoint a private social worker or other suitable person to investigate whether the relocation is in their best interest. If the other spouse does not cooperate, they can approach the court for an investigation to determine the children's best interests. If the children are older and mature, a mere interview by a trained social worker or psychologist might be sufficient to determine the child's wishes.

To conclude, interprovincial relocation is possible with or without the other parent's consent. However, the parents are required to consider and ideally consult the other parent before relocating with children. The children's best interests must prevail. Being considerate, co-parenting, and proper communication will always be in the children's best interest.

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