



Family Law

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It depends. A recent Court of Appeal case, Porter vs. Bryan 2017 ONCA 677, recently decided this issue. The Court found in favour of a woman who sought to move with the child in order to find suitable employment.

The father argued that the disruption to the child in changing his parenting time was not offset by the mother's need for employment.

The Court of Appeal saw it differently: it considered the primary caregiver test in the context of shared parenting. It referred to Gordon vs. Goertz, where the Supreme Court of Canada found that the views of the custodial parent were entitled to preferential treatment.

The Court of Appeal held

that shared parenting did not foreclose the potential to have a primary caregiver. In a shared parenting relationship, sometimes one parent simply makes their home available for the child half of the time, and the other parent does all of the heavy lifting – arranging daycare, working with the school, researching, planning and registering for activities, and managing homework and medical and dental check ups, among other things.

If you are a primary caregiver in your shared custody relationship, this case would be very helpful to you should you decide to go to court on a Mobility motion, and it would be wise to secure the assistance of a family lawyer.

Your friends at Shank Law.



Roxanne C. Shank
LAWYER

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My husband and I have shared custody of our children. I have them one week, he has them the other. My employer closed down the local plant and has offered me a transfer to another city. My husband will not let me move with the children, and says that if we go to Court I will lose for sure. Is this true?



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