In the Court of Appeal of Alberta

Citation: Oleksiuk v Laing, 2026 ABCA 371

Date: 20261120
Docket: 2603-0076AC
Registry: Edmonton

Between:

William Oleksiuk

Respondent

- and -

Emily Laing

Appellant

The Court:

The Honourable Justice Kevin Feehan
The Honourable Justice April Grosse
The Honourable Justice Joshua B. Hawkes

Memorandum of Judgment

Appeal from the Order by
The Honourable Justice M. Kraus
Dated the 4th day of March, 2026
Filed on the 6th day of March, 2026
(Docket: FL14 02879)

Memorandum of Judgment

The Court:

Introduction

[1] The parties have one child together, born in early 2025. Following their separation in November 2025, the child resided primarily with the respondent father as the parties tried to come to an agreement on parenting. In February 2026, the appellant mother unilaterally relocated with the child to Saskatchewan, where her parents live. The respondent obtained an interim parenting order on an urgent basis under the *Family Law Act*, SA 2003, c F-4.5, directing the return of the child. The order further provides that until further court order or agreement of the parties, the child will reside with the respondent at the family home in Alberta, and the appellant will have supervised parenting time at the family home. For the following reasons, the appellant's appeal of the interim parenting order is dismissed.

Analysis

[2] This Court will only intervene in an interim parenting order if the chambers justice erred in law or made a material error in the appreciation of the facts: *Bitz v Preuss,* 2024 ABCA 4 at para 8. The parties agree the chambers judge applied the correct legal test, being the best interests of the child. The determination of a child's best interests at first instance is fact-specific, highly discretionary, and entitled to deference: *Barendregt v Grebliunas*, 2022 SCC 22 at para 100.

[3] The appellant raises four grounds of appeal. Two of the grounds relate to an alleged failure on the part of the chambers judge to allow the appellant to adduce evidence and otherwise meaningfully participate in the urgent hearing. The other two grounds relate to how the chambers judge dealt with an alleged agreement on parenting that is disputed between the parties.

Participation in the hearing below

[4] When the court directed the emergency chambers hearing, it gave clear directions for the filing of materials. The Urgent Decision Form stated, "If the mother wishes to oppose the father's application, she must file and serve the father's lawyer with her responding affidavit by March 3, 2026." The appellant did not file an affidavit; rather, she submitted an unsworn statement. Although the clerk's office refused to file the unsworn document, a copy was provided to the chambers judge during the hearing, and he also heard the appellant's oral submissions. The appellant contends that the chambers judge did not review her statement closely enough, but there is no basis in the record for this Court to question the express statement of the chambers judge that "I have heard from Ms. Laing, and I have reviewed her written materials."

[5] The appellant also suggests that the chambers judge could have granted an adjournment to give her more time to prepare an affidavit. However, she never asked for an adjournment. Further,

it was not unfair for the chambers judge to proceed, given that the hearing was set on an urgent basis following the alleged unilateral relocation of the child, and the respondent's affidavit raised concerns about the safety of the child in the appellant's care. Moreover, the interim order contemplated a further process for determining parenting in the longer term.

[6] The key finding of the chambers judge was that on an interim basis, the respondent was "able to provide the psychological, emotional, and physical care of the child". That finding was open to him on the record, even accounting for the appellant's statement and submissions. There was conflicting evidence as to the appellant's health and stability, and her evidence that the respondent had consented to the move to Saskatchewan was far from determinative. On the other hand, the record included evidence that the respondent had taken a leave of absence from work to care for the child in 2025, and that between separation and the day on which the appellant took the child to Saskatchewan, the child had resided primarily with the respondent in the family home. While the appellant accused the respondent of abuse and neglect, that evidence lacked specificity, and she also proposed week-on, week-off parenting, undermining a suggestion that the child was unsafe with the respondent.

Disputed agreement between the parties

[7] The interim parenting order is consistent with the terms of what the respondent contends was an agreement between the parties reached following a 4-way meeting held shortly before the respondent moved to Saskatchewan. The appellant disputes the agreement. She argues the chambers judge erroneously relied on the disputed agreement in making the interim parenting order.

[8] The chambers judge expressly noted the dispute about whether the parties reached an agreement at the 4-way meeting. We do not read the decision as finding that an agreement existed or as relying on an agreement. The respondent proposed an interim parenting regime on similar or the same terms to those he alleged had been agreed to, while the appellant proposed week-on, week-off parenting. It was open to the chambers judge to find that the terms proposed by the respondent were in the best interests of the child on an interim basis regardless of whether there was an agreement.

Next Steps

[9] The appellant raises a concern that her supervised parenting time is to be exercised at the family home in Alberta, with her parents as supervisors, but she and her parents live in Saskatchewan. The respondent's counsel agrees that using the family home for supervised parenting has not worked well. The concerning net result seems to be that the appellant has had very limited parenting time with the child since the interim parenting order issued.

[10] The chambers judge encouraged the parties to do the hard work necessary to try to come to an agreement for parenting in the best interests of the child going forward. We gave them similar

encouragement during the appeal hearing. For example, if the supervision terms present difficulties, the parties may consent to amend them even if they cannot otherwise agree on changes to parenting. However, it appears the parties are not communicating effectively.

[11] The chambers judge also directed the parties to proceed through the Family Focused Protocol (FFP) in the Court of King's Bench if they could not address all the outstanding matters between them by agreement. Approximately eight months have passed since the chambers hearing and the parties are not yet in the FFP. Each suggests the other is responsible for the lack of progress. The appellant states that she was denied assistance by the Family Court Counsellors because the respondent told the court that no further steps should occur pending the outcome of this appeal. The respondent now says he would support appointment of "resolution counsel". We are not in a position to determine whether one party or the other could have acted differently to advance the case, nor is it our role to intervene in the FFP. However, we strongly urge the parties to immediately obtain assistance to resolve the matter privately or to determine what steps are required for them to enter the FFP and to take those steps. A prolonged conflict is not in the child's best interest.

Disposition

[12] We find no reviewable error in the chambers judge's order and the appeal is dismissed.

[13] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Appeal heard on November 2, 2026

Memorandum filed at Edmonton, Alberta
this 20th day of November, 2026

Feehan J.A.

Grosse J.A.

Hawkes J.A.

Appearances:

G. Bains
for the Respondent

Appellant E. Laing