

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LC,	:	NO. 85-21,432
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
DH, SR.,	:	
Respondent	:	

PH,	:	NO. 98-20,021
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
DH, SR.,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated November 6, 2002 in which Respondent was directed to pay child support to each Petitioner. Argument on the exceptions was heard December 18, 2002. Although Respondent raises four issues in his written exceptions, the gist of the matter is his complaint regarding the assessment of an earning capacity of \$2,000.00 per month.

It appears that at the time of the hearing in Family Court respondent was employed by M & M Excavating and Paving, with a monthly net income of \$1,664.00, but had been previously employed by Barletta Construction, the W-2 for which employment showed a gross income in 2001 of \$40,873.00. The hearing officer determined this gross income to provide Respondent with a monthly net income of \$2,308.54 and then assessed him an earning capacity of \$2,000.00 per month. Respondent’s complaint is that he is periodically laid off and that his work in the

construction industry is seasonal. The Court notes, however, that he earned nearly \$41,000.00 gross in 2001 in spite of any periods of lay off. Further, while Respondent may also experience different earnings rates, any significant change in his earnings rates is more properly the subject of a Petition for Modification after a period of time shows that he has a permanent change in his rate. The Court therefore finds no error in the hearing officer's assessment of an earning capacity.

ORDER

AND NOW this 6th day of January, 2003, for the foregoing reasons, Respondent's exceptions are hereby denied and the Order of November 6, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
LC
PH
DH
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson