

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

E.M., :
 :
 Petitioner/Plaintiff :
 :
 :
 v. : **No. 93-21,064**
 : **PACSES No. 217001887**
 T.T., : **DOMESTIC RELATIONS SECTION**
 :
 Respondent/Defendant :

ORDER AND OPINION

Before this Honorable Court, is the Respondent/Defendant's December 23, 2005 Exceptions filed to the Family Court's December 12, 2005 Order. Specifically, the Respondent/Defendant asks this Court to modify the Family Court's Order to account for his seasonal employment because, he claims, without this consideration, the Family Court's Order does not leave him with enough money with which to sustain himself after meeting his child support obligation. For the following reasons, the Court DENIES the Respondent/Defendant's Exceptions thereby AFFIRMING the Family Court's December 12, 2005 Order.

The Family Court's December 12, 2005 Order directs the Respondent/Defendant to pay the Petitioner/Plaintiff \$629.59 per month effective January 26, 2006. The Family Court relied on the following in arriving at this figure:

Respondent/Defendant's Total Net Yearly Income	\$22,102.73 ¹
Petitioner/Plaintiff's Yearly income/Earning Capacity	<u>\$9,000.00</u>
<i>Both Parties Total Income/Earning Capacity</i>	
<i>Yearly</i>	\$31,102.73
<i>Monthly</i>	\$2,591.90
Total Child Support Obligation 2005	\$874.00/month
Total Child Support Obligation 2006	\$886.00/month

¹ \$3,191.15 unemployment net income plus \$14,907.58 net income plus \$4,004.00 tax refund.

Because the Respondent/Defendant's income represents 71.06% of the parties combined total income, his monthly support obligation is \$621.06/month for 2005 and \$629.59/month beginning January 27, 2006.

The Family Court does not issue month-to-month child support obligation orders when the obligor's yearly income is ascertainable; i.e. child support obligation orders do not account for monthly deviations in income, but instead reflect an average monthly income assessment. The December 12, 2005 Family Court Order did average the Respondent/Defendant's monthly income to account for those months when he was unemployed; i.e. the Family Court Order utilized the Respondent/Defendant's yearly income to arrive at an average monthly income assessment. It is the Respondent/Defendant's responsibility to plan for those months when he is on unemployment and, his income is less, the Court will not modify the Family Court's Order to relieve him of this responsibility.

ORDER

AND NOW, this _____ day of January 2006, for the reasons set forth above, it is **ORDERED** and **DIRECTED** that the Exceptions filed by the Respondent/Defendant to the Family Court's order of December 12, 2005 are **DENIED**.

By the Court,

Nancy L. Butts, Judge

cc: Matthew J. Zeigler, Esq.
Respondent/Defendant
Family Court
Domestic Relations (SF)
Gary L. Weber, Esq.