

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

T.R.E.,		: NO. 06-20,982
	Petitioner	: PACSES NO. 830108483
		:
vs.		:
		: DOMESTIC RELATIONS SECTION
P.J.E.,		:
	Respondent	: Exceptions

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of April 26, 2007, which denied her request to reduce her spousal support obligation based on a reduction in her income. Argument on the exceptions was heard June 26, 2007.

The reduction in Respondent's income came as a result of her being fired from her position as a physician's assistant with Milton Family Practice. While Respondent argues the hearing officer erred in concluding she was fired for poor performance, a review of the testimony presented to the hearing officer supports such a finding. Therefore, pursuant to Pa.R.C.P. 1910.16-2(d)(1)¹ and Ewing v. Ewing, 843 A.2d 1282 (Pa. Super. 2004), in order for the court to consider reducing Respondent's support obligation, she must establish that she attempted to mitigate her lost income. It appears, however, that once terminated, Respondent began again receiving worker's compensation payments² and underwent further surgery, and did not attempt to find further employment. Prior to the date of her surgery, it appears she could have worked, and therefore, since she did not make any efforts to mitigate her lost

¹ Rule 1910.16-2(d)(1) indicates that there will generally be no effect on one's support obligation when one is, among other things, "fired for cause".

² Respondent had been employed as a physician's assistant at SCI Muncy, but left that employment due to an injury/condition which caused her to be unable to perform the job. She received worker's compensation payments

income, no reduction is warranted. Once she had the surgery, and was unable to work, her obligation has been suspended based on her receipt of worker's compensation. Once released to go back to work, however, she again remains obligated to demonstrate an effort to mitigate her loss of income. Considering the circumstances, the Court will allow Respondent to petition for further review at which time she may demonstrate her attempts to mitigate her loss of income since being released to return to work, and possibly justify the reduction which she seeks.

ORDER

AND NOW, this 27th day of June 2007, for the foregoing reasons, Respondent's exceptions are hereby DENIED, with the proviso noted above.

The Order of April 26, 2007, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section
Christina Dinges, Esq.
Joy McCoy, Esq.
Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley Anderson

until an Independent Medical Examination indicated she was able to return to work, at which time she began her employment with Milton Family Practice.