

COURT OF APPEAL FOR ONTARIO

RE:	MARCELLA JORDAN (Respondent) – and – EDWARD JORDAN (Applicant/Appellant)
BEFORE:	WEILER, LASKIN and ROSENBERG J.J.A.
COUNSEL:	D. Smith for the appellant
	Katrina A. Prystupa for the respondent
HEARD & ENDORSED:	January 9, 2006

On appeal from the order of Justice Gerald R. Morin of the Superior Court of Justice dated November 15, 2004.

APPEAL BOOK ENDORSEMENT

[1] This appeal concerns the operation of those provisions of the Divorce Act providing for the variation of an order for corollary relief.

[2] The parties divorced in 1997. The Alberta Court of Queen's Bench ordered corollary relief in favour of the wife and a division of the matrimonial property. The husband, who resides in Saskatchewan and is considering retirement, brought an application to vary the support he was paying his wife by terminating it. A provisional order was made granting his request apparently without reasons. The provisional order was transmitted to Ontario for a confirmation hearing as the wife was then residing in Ottawa. At the confirmation hearing the court found that not all of the evidence from Saskatchewan had been transmitted and therefore there had not been compliance with s. 18 (3) of the Divorce Act. Notwithstanding this, the Ottawa court refused to remit the matter back to the Saskatchewan court and dismissed the motion for confirmation. The husband appealed.

[3] In our opinion, it was essential that the Ottawa court have before it a proper record before proceeding with the confirmation hearing. Accordingly the appeal is allowed and the order of the Ottawa court is set aside.

[4] We make two further comments. Because the wife no longer resides in Ontario but has returned to Alberta, it seems to us that the most efficient course is to order that the matter be remitted for a confirmation hearing where she now resides. We would request the cooperation of the Attorney General for Saskatchewan in remitting the necessary documentation to the Attorney General for Alberta to take the appropriate steps.

[5] We do not consider this to be a proper case for costs.