

THE NIGHTMARE OF ROSTERS

19 April 2021

The first legal 'consideration' that needs to be made when determining children's care arrangements is whether an 'equal time' order is 'reasonably practical' and in the child's 'best interest'. What is 'reasonably practicable' becomes very difficult when rosters are involved. A recent case has considered just such a situation, when a parent has significant work hours.

The Facts

- The children were 6 and 3. The interim arrangements provided for the children to live with the mother and spend time with the father every Saturday evening and Wednesday to Monday in every fifth week.
- The father's roster provided that he work 6 days a week, finishing at 3pm every second Saturday and a rostered week off every fifth week.
- The father proposed on a final basis that the children live with each parent in a 'week about' arrangement. Whilst he acknowledged he had a heavy work commitment, he told the court he would arrange for the care of the children in his week by a relative or a paid carer.
- The mother proposed that the father spend every second Saturday with the children and for 6 days in his rostered week off.

The Court Found

- The court found that it was not in the children's 'best interest' to spend 'equal time' with each parent as proposed by the father. Not only was the identity of the paid carer unknown but there would be very extended periods where the children would be cared for by the paid carer and not the father.

The Court Held

- The children live with the mother and spend 'significant and substantial time' with the father, being an overnight each alternate Saturday and up to 6 days during his rostered week.
- However, if the father's working hours changed to a Monday to Friday roster, then he would spend time with the children from after school Friday to before school Monday each alternate weekend and an overnight on the Wednesday night in the other week.