

KERRY DOCKHAM

v.

ZACHARY HENNINGER

Submitted on Briefs September 27, 2017
Decided October 17, 2017

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Zachary Henninger appeals from a judgment of the District Court (Presque Isle, *O'Mara, J.*) ordering shared parental rights and responsibilities for Henninger and Kerry Dockham's child and granting primary physical residence of the child to Dockham. Contrary to Henninger's contention, the court did not abuse its discretion when it denied his motion for findings of fact because his motion did not include proposed findings of fact and conclusions of law. *Compare* M.R. Civ. P. 52(a), *with* M.R. Civ. P. 52(a) (Tower 2014); *Eremita v. Marchiori*, 2016 ME 160, ¶ 3, 150 A.3d 336. Absent a proper motion for findings of fact pursuant to M.R. Civ. P. 52(a), the trial court had no independent obligation to issue findings. *Ezell v. Lawless*, 2008 ME 139, ¶ 9, 955 A.2d 202.

We also reject Henninger's argument that the trial court abused its discretion in granting primary physical residence to Dockham. There was competent evidence in the record from which the trial court could have determined that the child's best interest would be served by providing that the child's primary physical residence would be with Dockham and that the

child would be with his father for two days and one overnight each week, after a brief transition period. *Pelletier v. Pelletier*, 2012 ME 15, ¶ 20, 36 A.3d 903. Finally, the trial court exercised “independent judicial thought” in arriving at the schedule of parental rights and responsibilities in its final judgment and did not abuse its discretion. *In re Marpheen C.*, 2002 ME 170, ¶ 7, 812 A.2d 972.

The entry is:

Judgment affirmed.

Cassie Rodgers, Esq., Swanson Law, P.A., Presque Isle, for appellant Zachary Henninger

James M. Dunleavy, Esq., Currier & Trask, P.A., Presque Isle, for appellee Kerry Dockham