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S O L I C I T O R S

## LawTalk Blog



# I know he's the father of my child but he keeps denying it

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### Scenario

Tori and Mason were both out with their friends at their popular local pub. After both recently separated from their former partners they were single and ready to mingle.

Mason saw Tori across the dance floor. He approached her and offered to buy her a drink. After some small talk it was clear that there was chemistry between the two. At the end of the night Mason invited Tori back his place. I don't think I need to say any more.

*"Four weeks later Tori found out she was pregnant and she knew Mason was the father."*

After that night Mason did not contact Tori again despite Tori's efforts to get in touch with him.

Four weeks later Tori found out she was pregnant and she knew Mason was the father. She again tried to contact Mason to tell him the news. Mason was shocked and refused to acknowledge that he may be the father.

They then had minimal contact until the baby was born. It was a girl and Tori named her Coco.

After the birth Tori again contacted Mason asking him to sign the birth certificate and provide financial support for Coco. Mason refused. Mason was convinced he was not the father and he was not paying for a child that, in his view was not his.

Tori asked Mason if he would undergo a parentage test but Mason refused.

## **What can Tori do to prove that Mason is the father of her child?**

When there is a dispute regarding a child's parentage the first step is to look at sections 69 through to 69T of the *Family Law Act* 1975. These sections set out circumstances where a person may be presumed to be the parent of a child. In certain circumstances the Family Law Courts can make a declaration that that person is a parent of the child.

If any of the presumptions outlined in the Act applied to Tori's situation then she could apply to the court to get a declaration that Mason is the father of Coco.

If none of the presumptions apply then the only way to resolve a parentage dispute is for a parentage testing procedure to be carried out.

If a person does not agree willingly to undergo the test then the Family Law Courts can make an order requiring that person, or any other person they believe will assist in determining the parentage of a child, to undertake the test.

When the court is considering whether they will make an order requiring parentage testing to be carried out, the court needs to be provided with evidence which places the parentage of a child in doubt. An order for parentage testing cannot just be made simply to satisfy one parent's personal doubt concerning a child's parentage.

In circumstances like these it is always best to obtain specialist legal advice from a solicitor practicing in Family Law.

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