

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

**ENTRY ORDER**

**SUPREME COURT DOCKET NO. 2001-521**

**MAY TERM, 2002**

	}	APPEALED FROM:
	}	
Dianne P. East	}	Franklin Family Court
	}	
v.	}	
	}	DOCKET NO. 264-8-99 Frdm
Scott M. East	}	
	}	Trial Judge: Jane E. Dimotsis
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Mother appeals that aspect of the family court's divorce order requiring the parties to share legal rights and responsibilities with respect to their four children. We reverse and remand.

In its final order, the court awarded mother primary physical rights and responsibilities, as agreed to by the parties. The court noted that the issue of legal rights and responsibilities was in dispute. Mother wanted those rights to be awarded exclusively to her, while father asked the court to continue the arrangement set forth in the temporary order requiring the parties to share legal rights and responsibilities. The court encouraged the parties to try to communicate better for the sake of the children, and noted that father was willing to attend mediation to improve in that area. Stating that the parties' relationship had not deteriorated to the point where they could not share legal rights and responsibilities, the court ordered them to do so.

On appeal, mother argues that the family court erred by awarding shared legal rights and responsibilities without both parties agreeing to it. We agree. Section 665(a) of Title 15 provides as follows: "When the parents cannot agree to divide or share parental rights and responsibilities, the court shall award parental rights and responsibilities primarily or solely to one parent." In *Cabot v. Cabot*, 166 Vt. 485, 493 (1997), we held that the family court violated § 665(a) by ordering shared legal rights and responsibilities against the wishes of the mother, who had been awarded primary physical rights and responsibilities. The situation is the same here. Accordingly, we strike the court's award of shared legal rights and responsibilities, and remand the matter for further consideration. See *id.* at 495.

Reversed and remanded.

BY THE COURT:

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James L. Morse, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice