



## THERE'S BEEN A DEATH IN THE FAMILY: WHAT DO I DO?

We are often contacted shortly after the death of a family member with the general question "what should I do now?" We hope the following general advice provides some assistance at this very stressful time.

### LOCATE THE DECEASED'S WILL

One of the comforts given by a Will is to know that there is someone who is ultimately in charge. The estate trustee (executor) named in the deceased's Will bears final responsibility for the funeral and burial arrangements of the deceased. Naturally, this responsibility should be exercised with sensitivity to the wishes of all close family members. Most testators keep a copy of the Will among their valuable papers or give some indication in their papers as to its location. If the Will is held at our office if contacted we will immediately review the Will and provide a copy to the estate trustee.

### FIRST THINGS FIRST

Your funeral director will normally assist with both funeral and burial arrangements. Frequently, a member of the family will guarantee payment of the funeral account but of course is entitled to reimbursement from the estate at the earliest possible moment.

### WHEN YOU SEE THE LAWYER

After the funeral, and when you are feeling more comfortable, please make an appointment to see us. No matter how simple the estate administration may seem, you should have a solicitor review the estate affairs. Bring with you to the interview as much information as you can regarding the nature and amount of the deceased's assets. We suggest that you bring the Will, bank books, stock certificates, the house deed, insurance policies, the last income tax return and any debt documents. It is also helpful if you have prepared a list of the estate beneficiaries including their addresses, telephone numbers and even, if possible, their social insurance numbers.

### CAN THE ESTATE TRUSTEE DISTRIBUTE ANYTHING RIGHT AWAY?

Many deceased leave among their papers a memorandum advising how they want their personal effects distributed. Provided that the estate is not insolvent, and provided that all the beneficiaries are satisfied with the proposal, most estate trustees will distribute the personal effects of the deceased very shortly after death. One should not, however, distribute any items which have great monetary value such as jewellery and art work without the item having an agreed

value that can be attributed later to the recipient's share of the estate distribution. Other than the personal effects, the estate trustee should not distribute any portion of the estate without first consulting the estate's solicitor. The estate trustee bears personal responsibility to any estate creditors, including Revenue Canada, for any distribution of the estate before the estate liabilities are determined and paid.

### IS THE ESTATE TRUSTEE ENTITLED TO COMPENSATION?

In an estate of average complexity, an estate trustee is entitled to claim compensation for his or her care, pains and trouble and time expended. The usual rate is 5% of the value of the estate. These amounts are only a guideline, and for simpler estates the amount claimed is usually reduced.

### WHAT WILL THE LAWYERS DO?

There are certain aspects of estate administration for which you require a legal professional. These include the preparation of the application for a court appointment of estate trustee, and any dealings with real property. When you first attend our office to review the estate we will discuss with you, in the context of the specific estate, how we can assist and what our charges will be. Our first letter to the estate trustee will provide a detailed summary of the estate, what needs to be done, and the prospective legal fees and disbursements.

### CONCLUSION

Our law firm has extensive experience in estate administration issues. Our goal is to assist the family of a deceased to complete the process of estate administration as quickly and as economically as possible.