

## THE EX LEFT HER OUT OF THE WILL

Mr. Grant died and left behind both his wife and ex wife. He signed a separation agreement with wife number one where he agreed to provide spousal support for the rest of her life. However, the first Mrs. Grant was not a beneficiary under his Will and upon his death the last Mrs. Grant declined to continue support payments to the first Mrs. Grant. The first Mrs. Grant applied to the Court for a lump sum payment that reflected the money she would have received had Mr. Grant still lived.

As a general rule the law provides people with free choice about to whom and in what manner they want their estate divided and distributed. One of the limits to that freedom is found in the *Succession Law Reform Act*, which, subject to the discretion of the Court, allows dependants to apply for proper support if the deceased had not made adequate provision for the dependant. The law includes an ex-spouse as a dependant. In order to be entitled to support, the first Mrs. Grant had to demonstrate that Mr. Grant was supporting her prior to his death or that he had a legal obligation to support her immediately prior to his death.

The Court granted the first Mrs. Grant her application because the separation agreement's wording was clear that the legal obligation to support her was present prior to Mr. Grant's demise and it envisioned the providing of support for the balance of her life.

### Conclusion:

There is an old joke that death is not the end..... it is the beginning of estate litigation. Despite the temptation to jump to conclusions, it would be a mistake to view this canvassing of a legal issue of significance as legal advice. It is always advisable to speak to a qualified lawyer to determine if an application to Court for Support is worthwhile by a dependant who was left out of a Will.



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