

NOVA SCOTIA COURT OF APPEAL

Citation: *Keddy v. Keddy Estate*, 2017 NSCA 78

Date: 20170921

Docket: CA 456902

Registry: Halifax

Between:

Brad Keddy

Appellant

and

Troy Keddy, Executor of the Estate of Henry Robert Keddy

Respondent

Judge: The Honourable Justices Peter M.S. Bryson, Linda Lee Oland,
and Cindy A. Bourgeois

Appeal Heard: September 21, 2017, in Halifax, Nova Scotia

Subject: Wills. Revocation of Grant of Probate. Lost Will. Costs.

Summary: After Henry Keddy died in 2014, a 1988 will he gave to his son, Troy Keddy, could not be found. Troy Keddy was granted probate of a will his father had signed in 1974. The Probate Court judge dismissed an application brought by another son, Brad Keddy, to revoke that grant of probate, and ordered costs against the applicant. Brad Keddy appeals from his Order and decisions on the merits and on costs.

Issues: (1) Whether the judge erred in failing to make certain inferences from the evidence, including an inference that the 1988 will had been validly executed.

(2) Whether he erred in finding that the requirements of s. 45 of the *Evidence Act* had been satisfied.

(3) Whether he erred in making his costs award.

Result: Appeal dismissed with costs. The first issue is a question of

fact or inferences of facts, and the second a question of mixed fact and law, for which the standard of review is palpable and overriding error. There was no such error in respect of either which would justify appellate intervention. Nothing in the costs decision shows that wrong principles of law were applied or that the costs award resulted in manifest injustice.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 3 pages.