

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: MacDonald Estate (Re), 2008 NSSC 253

Date: 20080903
Docket: 296438
Registry: Kentville

In the Court of Probate for Nova Scotia
In the Estate of James Hector MacDonald, Deceased

Application pursuant to Section 68
of the Probate Court Practice, Procedure and Forms Regulations

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Judge: The Honourable Justice Gregory M. Warner

Heard: July 17, 2008 at Kentville, Nova Scotia

Counsel: Joseph Cuffari, Solicitor for the Applicant
Gloria MacDonald, not present, not represented

Subject: Probate application

Summary: A personal representative seeks interpretation of, and directions respecting, a life interest devised by a testator to his wife in his last will.

Issue: Did the widow's life interest still exist or whether, as a result of abandonment in early 2007, her interest ceased?

Result:

- 1) Ms. MacDonald has not disclaimed her life interest;
- 2) the life interest is as expressly stated an interest for the rest of her life and does not require her, but only entitles her, to possession and management;

- 3) Mr. MacDonald may be able to apply for appointment of a receiver to appropriate rents to pay property taxes; and,
- 4) Ms. MacDonald is not responsible for any permissive waste; such waste does not entitle forfeiture of the life interest.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***