

**SMALL CLAIMS COURT OF NOVA SCOTIA**  
**Citation: *Jennings v. Jennings*, 2019 NSSM 63**

**Date:** 2019-10-02  
**Docket:** SCCH 491105  
**Registry:** Halifax

Between:

Sandra Ruth Jennings

*Claimant*

- and -

Sally-Jayne Katrina Jennings

*Defendant*

**DECISION AND ORDER**

**Adjudicator:** Eric K. Slone

**Heard:** in Halifax, Nova Scotia on October 1, 2019

**Appearances:** For the Claimant, David Barrett, counsel

For the Defendant, self-represented

## **BY THE COURT:**

[1] When someone agrees to be a Power of Attorney for someone, particularly someone who is vulnerable, it is said to create a duty of “utmost good faith.” That means that the holder of the Power of Attorney is a trustee or agent and must act entirely in the interest of the other person. Most importantly they must be prepared to account for their expenditures.

[2] The case here involves relatively small amounts of money, but the principles still apply.

[3] In 2017 the Claimant gave the Defendant (her adult daughter) a fairly standard Power of Attorney, which does not appear to have been used until 2018 when she transferred over to the Defendant the sum of \$15,000.00 which she earmarked for future care and possibly funeral expenses. That money was part of the proceeds of a life insurance policy on the Claimant’s late husband, the Defendant’s father.

[4] The money was deposited into one of the Defendant’s personal bank accounts at T-D Canada Trust.

[5] At the time of this transfer the Defendant and her teenage daughter were living with the Claimant in her home in Herring Cove. Sometime thereafter, there were disagreements and the Defendant (and her daughter) moved out or were forced to move out. Any semblance of trust appears to have been destroyed.

[6] In this Claim the Claimant seeks the return of \$2,319.00 out of the \$15,000.00

that she had entrusted to the Defendant. The balance of \$12,681.00 had already been recovered.

[7] The Defendant claims that she only owes the Claimant \$1,100.00, which she admits that she borrowed for her own use. She claims that the other \$1,219.00 was spent at the Claimant's own direction.

[8] The evidence of the Defendant was extremely difficult to follow, as it was mixed in with her many grievances about how she has been treated by her mother and other family members. However, as best as I can narrow it down, she says she was instructed to transfer \$1,000.00 to her mother's personal account, to be used for car repair expenses. However, according to the Claimant, that money was not there in her account when she needed to pay the car expense. The Defendant was very vague about what happened to that money. I find as a fact that the Defendant did not provide that money to her mother for the intended purpose but appropriated it for something else.

[9] The Defendant accounts for the remaining small balance by suggesting that the Claimant instructed her to pay for various take-out food or other incidental expenses. The Claimant denies instructing the Defendant to use her money for this purpose.

[10] The legal onus is on the Defendant as attorney or agent for the Claimant to account for the money entrusted to her. She has not done so to my satisfaction. The penalty for failing to account is to be ordered to pay back the money.

[11] As such I am ordering the Defendant to pay to the Claimant the sum of \$2,319.00 plus costs in the amount of \$99.70 to issue the claim as well as \$143.75 to

serve it.

**ORDER**

IT IS ACCORDINGLY ORDERED that the Defendant pay to the Claimant the sums as follows:

Debt	\$2,319.00
Cost to issue claim	\$99.70
Cost to serve claim	\$143.75
Total	\$2,562.45

**Eric K. Slone, Adjudicator**