



WILLS

Matter

IF THERE IS NO VALID WILL, “WHO GETS WHAT”?

In a previous edition of “Wills Matter”, we discussed what might make a Will invalid. If a person dies without a Will or with a Will that is invalid, that person is said to die “intestate”. The question then is “who gets what”?

In British Columbia, the *Estate Administration Act* sets out the rules for how property is divided in the absence of a valid Will. In a nutshell, the law looks to the closest living relatives to determine how property will be divided. In order of descending priority, the following “living” relatives are in line for inherited property:

1. Spouses (married or common law);
2. Children (natural and adopted, not step-children);
3. Parents;
4. Brothers and Sisters; and
5. Nephews and Nieces (of the Deceased’s blood line, not of the Deceased’s spouse).

If there are no living nephews or nieces, the law then searches for the next nearest blood relative of the Deceased, including “half-blood” relatives. The law does this by looking for the nearest common ancestor on the Deceased’s family tree and then looking down that common ancestor’s lineage to find a living blood relative.

Living spouses and children will share an inheritance, on an intestacy, according to a formula set out in the *Estate Administration Act*. And yes, a person can die with more than one qualifying spouse.

Whether you are planning your Estate or think you might have an interest as a relative in an Estate, it is important that you consult with an experienced Wills or Estate Litigation lawyer who will be able to give you legal advice.

Contact Fulton & Company’s Wills & Estates Team

if you have any questions regarding wills or estate matters.

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