

Original version: As a matter of law - What is required to oust a named beneficiary?

As a matter of law



What is required to oust a named beneficiary?

The Ontario Superior Court asked this question in the case of *Ramkelawan v. Ramkelawan*, 2010 ONSC 6939 (CanLII).

In August of 1998, Vijay Ramkelawan completed an application for group coverage with Great-West Life through his employer. At the time, he designated his brother Arvind as a revocable beneficiary for life insurance benefits.

Prior to this, Vijay had married Chandra in 1982 but the couple divorced in 1997. Despite the divorce, there was evidence to support that they continued to have a relationship until the death of Vijay in June of 2008 from cancer. In July 2005, he completed an RBC disability claim that designated Chandra as the beneficiary for his life insurance proceeds. RBC had assumed the Great-West Life policy.

At the death of Vijay, Arvind contested Chandra's entitlement to the insurance proceeds and the proceeds were paid into court until the matter could be determined.

Arvind argued that Section J of the RBC policy had not been complied with. Arvind's position was that the beneficiary designation had never been modified because the request to make Chandra beneficiary had not been filed with the insurance company through the employer and it was not on a form satisfactory to the insurance company.

In coming to its decision the court considered a leading authority on insurance – *Northwood On Life Insurance in Canada*, (3rd Edition) Carswell, 2002 at page 293: "There is no formality required in a beneficiary designation other than that it must be signed with or without a witness ... No formal language is necessary ... Indeed, the declaration may even be valid even if not filed with the insurer."

The court concluded that while RBC included information regarding filing and form requirements, this information was not conveyed to Vijay. As well, the employer advised that the material should be forwarded directly to the insurer and not through them. The court found that Vijay had signed the form satisfactory to RBC. Finally, the court determined that there was enough evidence of intent by Vijay for Chandra to be beneficiary.

The signed declaration by Vijay making Chandra beneficiary of the life insurance proceeds was declared to be legally valid by the court. The proceeds were ordered to be paid out of court to Chandra and Arvind was ordered to pay costs of \$19,000. This ended up being an expensive endeavour for Arvind, but confirms what will be considered by the court to oust a prior designation.

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