

CANADA / JUDGMENT

Pelling Estate v. Pelling

2026 ONCA 64

COURT

Court of Appeal for Ontario

DECIDED

2 February 2026

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Pelling Estate v. Pelling Collection Decisions of the Court of Appeal Date 2026-02-02 Neutral citation 2026 ONCA 64 Docket numbers COA-24-CV-1390 Judges Miller, Bradley; Monahan, Patrick J.; Dawe, Jonathan Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Pelling Estate v. Pelling, 2026 ONCA 64 DATE: 20260202 DOCKET: COA-24-CV-1390 Miller, Monahan and Dawe JJ.A. IN THE MATTER of the Estate of Evah Nadine Pelling, deceased BETWEEN Bernadette Morin-Strom in her capacity as named Estate Trustee of the Estate of Evah Nadine Pelling Applicant (Respondent) and Robert Albert Pelling, Ryan Leigh Slute, Robert James Pelling*, Amanda Lee Pelling, Audrey Moore, Shannon Moore, Coral Mason, Daniel Mumford, Derek Mumford, Allen Mason, Stephen Mason and The Children's Lawyer on behalf of the minors Brett Albert Pelling, Alison Evah Pelling, Tessa Irene Pelling, and Natasha Michelle Pelling** and the unborn and unascertained issue of Evah Nadine Pelling Respondents (Appellant*/Respondent**) Alexandra V. Mayeski and Alice E. Colquhoun, for the appellant Stuart Clark, for the respondent Bernadette Morin-Strom, Estate Trustee of the Estate of Evah Nadine Pelling, deceased Justin de Vries and Rebecca Studin, for the respondent The Children's Lawyer on behalf of the minors Brett Albert Pelling, Alison Evah Pelling, Tessa Irene Pelling, and Natasha Michelle Pelling Heard and rendered orally: January 29, 2026 On appeal from the judgment of Justice Mario D. Faieta of the Superior Court of Justice, dated October 18, 2024, with reasons at 2024 ONSC 4353. REASONS FOR DECISION

- [1] This is the second of two appeals from the same judgment that were heard together (COA-24-CV-1271 and COA-24-CV-1390). The costs disposition below applies to both appeals.
- [2] The appellant Robert James Pelling ("Robbie") argues that the application judge committed two errors: (1) not finding the 2014 handwritten document to be testamentary in its entirety; and (2) failing to find that it expressed a fixed and final intention that Robbie's mortgage would be forgiven and the amounts paid returned to him.
- [3] We do not agree that the application judge erred in either respect. First, the application judge found the 2014 handwritten document to be testamentary in its entirety, although he found that only three passages in the document contained dispositions of property. Second, the application judge found that the passages addressing the mortgage did not express a fixed and final intention because they were tied to an intention to give the property referred

to by the parties as the “Three Mile Lake House” to Amanda Pelling, and the application judge found that the testator did not follow through with this intention.

- [4] We are satisfied that the application judge came to these conclusions relying on the document itself and not by relying on any inadmissible evidence.
- [5] We find that there was no palpable and overriding error and the appeal is dismissed.
- [6] The Children’s Lawyer was entirely successful on both appeals and is awarded costs of the appeals on a full indemnity basis of \$53,000, to be paid from the estate. The appellants in both appeals were unsuccessful and shall bear their own costs. The estate trustee is awarded \$1,500, to be paid from the estate. “B.W. Miller J.A.” “P.J. Monahan J.A.” “J. Dawe J.A.”

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