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Holland, Stalbecker-Pountney

Cohabitation: The Law in Canada

This unique looseleaf is specifically focused on legislation and case law regulating domestic relations between unmarried spouses, including same-sex couples. Prepared by experts in the law of cohabitation and aided by contributions from experts from across Canada, each chapter deals with a particular topic and analyzes both the legislation and case law pertinent to that topic in the common law provinces and Quebec.

What's New in this Update

This release features updates to the case law and commentary in Chapter 1 (Introduction), Chapter 2 (Property Rights), and Chapter 3 (Support Obligations).

This release includes the following:

Highlights

- In *Morrison v. Greenwood*, 2020 BCSC 1356, 2020 CarswellBC 2241 (B.C. S.C.) the respondent G was 88 years old, suffered from dementia,

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was no longer competent to manage her affairs or make healthcare decisions, and resided in a long-term care home. The claimant M was 79 years old, began living in G's home in 2000 and continued to reside there. The issue arose as to M's occupation of the home when M alleged that the parties were in a committed spousal relationship, which G's litigation guardian B denied.

- In *Jones v. Davidson*, 2020 BCSC 1371, 2020 CarswellBC 2270 (B.C. S.C.) the deceased died intestate in March 2014. The deceased developed a friendship with the defendant that turned romantic, and she eventually moved in with him. The defendant applied for and was granted letters of administration in respect of the deceased's estate on basis that she was the deceased's lawful common law wife. The plaintiff disputed that the defendant was the deceased's common law spouse for the requisite two-year period prior to his death.
- In *O.O. v. L.M.*, 2020 BCSC 851, 2020 CarswellBC 1437 (B.C. S.C.) the father was ordered to pay retroactive spousal support of \$50,987. The father's income tax deductions for periodic spousal support payments were disallowed by CRA for payments relating to the retroactive award and so he sought a declaration or order that he had made periodic payments. court held that the father could and should deal with the matter as a tax issue rather than seeking indirect relief. In any event, Tax Court case law indicated that payors could deduct lump-sum payment where the nature of payment could be identified, with no indication that the obligation to pay retroactive periodic maintenance for periodic payments owing prior to the order must be reflected on the face of the order. The father had no need for a further order or declaration.