

# Your Catholic Legacy



Archdiocese  
of Toronto

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## A Miraculous Gift for Retired Priests

Before the death of Fr. Peter Rosettis in 2003, he drafted an estate plan to ensure three things happened after his funeral.

The first came in the form of an old typed note done with a manual typewriter that read: "I wish the place of my burial to be the Priests' Plot of St. Augustine's Seminary."

The second was his wish for a sum of money to be given to the Basilian Fathers so they could offer Masses for the repose of his soul.

The third request was that the remainder of his estate be given to The Shepherds' Trust, the Archdiocese of Toronto's program that provides proper support for retired priests.

Fr. Rosettis' estate plan underlined his love of the Church. This is evidenced by his desire to be buried with his brother priests in the grounds of St. Augustine's Seminary that formed his priestly ministry, and his decision to gift his worldly possessions to help care for aged priests in the final years of their life.

When his estate was wound up, Fr. Rosettis' personnel files were sent to the Archives of the Roman Catholic Archdiocese of Toronto for safe storage. Everyone assumed the file was closed.

But everyone was wrong.

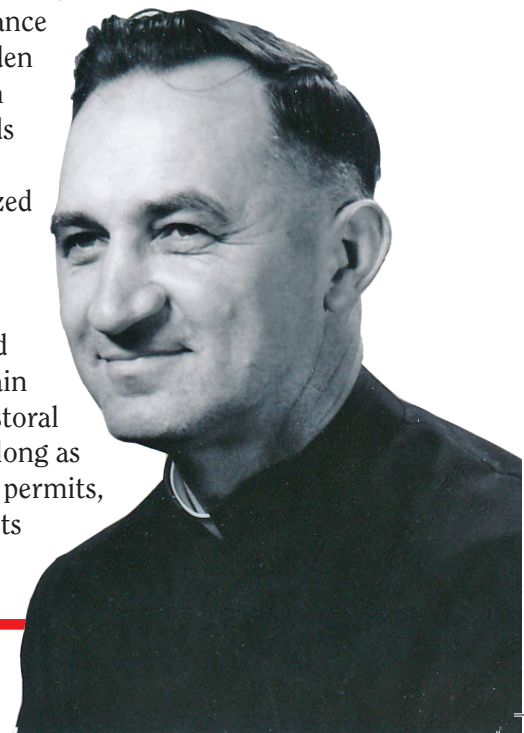
In 2015 a letter arrived addressed to Fr. Peter Rosettis with a heading that so desperately sought to grab the reader's attention it seemed to be a hoax. The letter read, "DON'T DELAY! Immediate Action

Required to Claim Your Cash Due of US \$69,960.00!"

According to the letter, records indicated that Fr. Rosettis owned some stocks held in the United States that were being acquired by a third party and all shareholders were being bought out. It turned out that the late priest was indeed eligible to receive a windfall, one-time buyout of US \$69,960.00.

Over the next 6 months representatives for the estate jumped through numerous hoops to retrieve the funds. A collective cheer was raised when a cheque for The Shepherds' Trust was finally received.

The beneficiaries of Fr. Rosettis' kindness are retired priests as The Trust helps ensure that retired priests receive the dignity of an adequate monthly allowance, health care and other assistance in their golden years, which often extends well beyond the recognized priest retirement age of 75. Many retired priests remain active in pastoral work for as long as their health permits, and all priests require



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# Guide to Finding Unclaimed Bank Balances



So your reclusive uncle Steve suddenly dies leaving no Will or documentation regarding his finances or estate. You always knew he had money, but the extended family has gone through his home looking for documents and have come up empty. Many years later, you hear that the Bank of Canada takes over unclaimed bank balances. How do you find out if any funds have been remitted?

Millions of dollars lay dormant and unclaimed within our banking system. As of December 2015, about 1.7 million unclaimed balances, worth some \$626 million, were on the Bank of Canada's books. The Bank of Canada ([www.bankofcanada.ca](http://www.bankofcanada.ca)) offers answers to questions about this money:

## What are unclaimed balances?

An "unclaimed balance" is a "Canadian-dollar deposit or negotiable instrument issued or held by a federally regulated bank or trust company that has been transferred to the Bank of Canada after it has been inactive for a period of ten (10) years". The types of balances come from a variety of sources, including chequing and savings accounts, credit cards, term deposits, GICs and money orders. Not all goes through the Bank of Canada though. The

types of unclaimed balances not held by the Bank include: non-Canadian currencies, registered retirement plans, life insurance policies, gold or silver certificates, stocks and safety deposit boxes.

## How can I recover unclaimed balances?

Identify a balance by searching the Bank of Canada's unclaimed balances registry, fill out a claim form, respond to requests, and await claim results. Sounds simple, right? Well... it all depends on what type of claim you are submitting.

## What are the types of claims?

- 1. Individual** – A claim to retrieve a balance for which the owner is still living.
- 2. Estate** – A claim to retrieve a balance for which the owner is deceased.
- 3. Corporate** – A claim to retrieve a balance for which the owner is an organization.

In the case of an Estate claim, the process starts with filling a contact details form at the Bank of Canada's website. You will then be mailed an estate claim package.

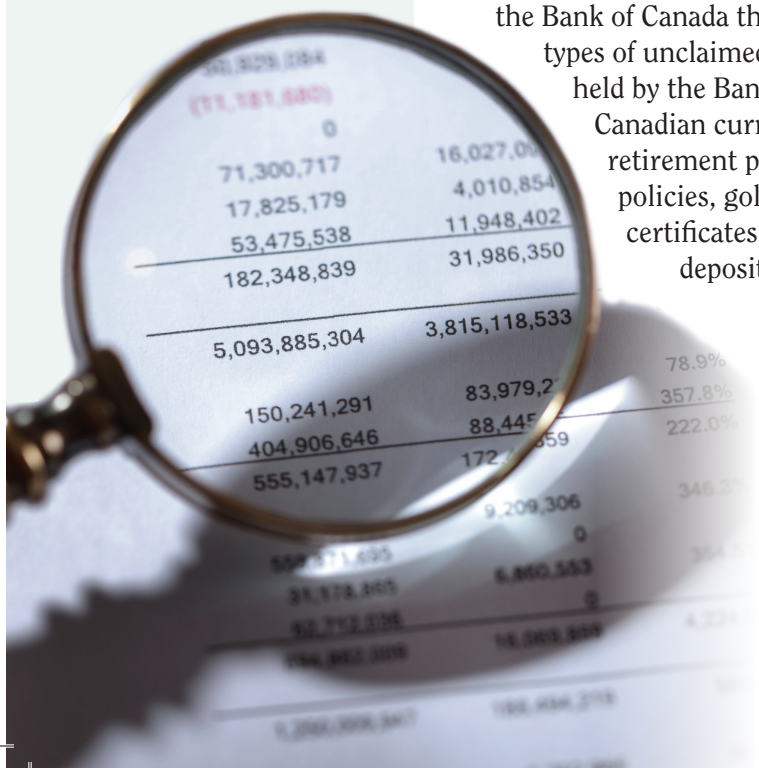
Examples of the documentation that will be required include proof of identity, authorization to act on the estate's behalf, proof of death, the Will, Probate/Certificate of Appointment of Estate Trustee with a Will (if granted), etc.

## Can the Bank of Canada take over any unclaimed monies?

Yes. If there has been no account activity for 10 years, and the owner cannot be contacted, the balance is turned over to the Bank of Canada. Unclaimed balances of less than \$1,000 are held for 30 years. Balances of \$1,000 or more are held for 100 years. If the balance remains unclaimed, funds are transferred to the Receiver General for Canada.

## How long does it take to process a claim?

The Bank of Canada responds to claims within 10-12 weeks. A legal advisor should be consulted for complex claims.





## WHAT HAPPENS TO YOUR CHILDREN IF YOU DIE WITHOUT A WILL?

There are plenty of reasons for having a Will, especially when it comes to the role it plays in dealing with children and their future.

When a person dies without a Will (referred to as intestate) the consequences are governed by a set of rules that impacts both the surviving spouse and any minors. In Ontario, the laws of intestacy are set out in the Succession Law Reform Act (“SLRA”).

It may come as surprise that where an individual is married with children and dies without a Will, the whole of his or her estate does not pass to the spouse. The rules in the SLRA provide that the estate will be divided between a surviving spouse and children. The spouse will receive the first \$200,000 of estate assets (called the “preferential share”). The balance of the estate will be split in proportions that depend on the number of children.

For example, if there is a surviving spouse and one child, the balance of the estate will be divided equally between the spouse and child. Where there is a spouse and two or more children surviving, the spouse will receive one-third of the estate and the surviving children will split the remaining two-thirds.

It should be noted that only married spouses can inherit on an intestacy. Common-law spouse are out of luck and would have to make a claim for support to receive anything from the estate.

Where an individual dies without a Will (intestate), someone will have to apply to be appointed as estate trustee to administer the estate. There are rules set out in the Estates Act that govern who will be entitled to apply to be the estate trustee. Those rules provide that the court has the discretion to grant the administration of the estate to a married or common law spouse of the deceased, or the next of kin of the deceased, or both.

Where an individual dies leaving minor children with no surviving parent, the minor children will require a guardian. An individual

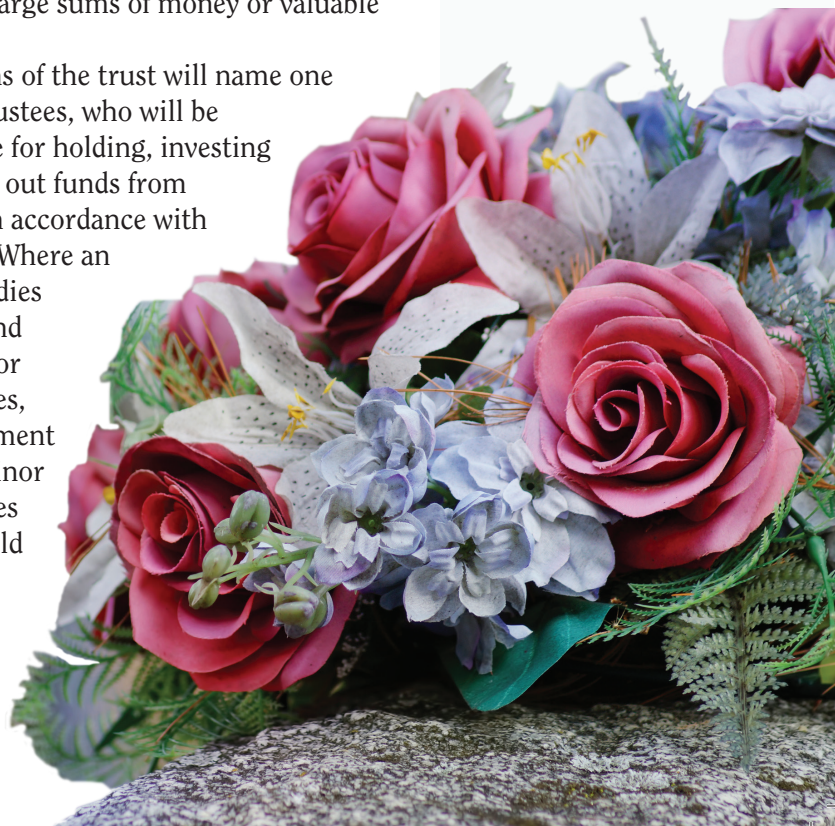
will be required to apply to court for custody of the minor children. In order to be granted authority to deal with a minor’s property, an individual would also have to apply to be the guardian for property of the minor child. It should be noted that although an individual can include a provision in a Will setting out who they wish to have custody and guardianship of a minor child, the individual named will still be required to apply to court after the individual’s death to be granted custody and guardianship.

However, the benefit of having a Will with this type of provision is that it is good evidence of who the deceased wished to have custody and guardianship of their children, in the event of a dispute over this question.

In Ontario, an individual under the age of 18 years cannot inherit property directly – it must be held until he or she attains the age of 18. Typically, where an individual intends to leave property to a minor, he or she will make a Will that establishes a trust for that minor. That trust will typically require that property be held beyond the age of 18 years, since it’s generally agreed that 18 is too young an age to inherit large sums of money or valuable property.

The terms of the trust will name one or more trustees, who will be responsible for holding, investing and paying out funds from the trust in accordance with its terms. Where an individual dies intestate and leaves minor beneficiaries, the entitlement of those minor beneficiaries must be held for them

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## IF YOU DIE WITHOUT A WILL

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until they reach the age of 18 years (and at law, for no longer than that).

Thus, where there is no Will, there are two issues: (1) the minor children will inherit everything at 18, and (2) there is no trustee for the minor's inheritance.

There is nothing that can be done about the first issue. With respect to the second, where the minor does not have a court-appointed guardian for property, the Office of the Children's Lawyer (OCL) will step in as trustee of the funds. The individual with custody of the minor child can request funds from the OCL as needed.

Alternatively, an individual can apply to be the child's guardian for property and request transfer of the child's funds to him or her for management until the child turns 18.

Clearly, the importance of having a Will is magnified where minor children are involved. In order to have some control over who will raise minor children and manage their inheritance for them, it is imperative that an individual seek the advice of an estate planning lawyer to include the necessary clauses in their Will.

(Amanda Stacey is a member of the Social Impact Group and Private Client Services specialty groups at Miller Thomson. Stacey provides both general counsel and specialized tax advice to charities and not-for-profit organizations across Canada and abroad and provides estate planning advice to individuals and families.)



## A Miraculous Gift

*(continued from page 1)*

comfortable accommodations and other day-to-day necessities.

The Shepherds' Trust exists to give the laity a means, as the motto states, "to care for those who have cared for us." After years of dedication to parishes and other ministries, priests rely on the people they have served to help provide for them in retirement.

*If you would like to make a special gift to The Shepherds' Trust, please connect with Quentin Schesnuik, Manager of Planned Giving and Personal Gifts. His contact information is noted below.*

### Contact us

*Your Catholic Legacy*, the planned giving newsletter of the Archdiocese of Toronto, is a free publication that is produced twice a year to keep parishioners informed about issues related to estate planning and the many tax-smart and creative ways they can support their parishes and Archdiocesan charities. While all articles are researched and come from reliable sources, you should always consult an advisor before making any gift.



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We encourage you to share this newsletter with a friend or family member.