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## How to Find a Will in Court Records

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**206** Research Guide

Most Recent Update:  
May 2015

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This research guide describes how to find a will that was filed in an Ontario court. In Ontario, the courts usually probate a will after the death of the individual.

### GETTING STARTED

To find a will filed in Ontario, you will need to find the estate file. An “estate file” is the name of the file that has the documents that a Court in Ontario uses to disperse a deceased person's possessions, whether the person died with a will (testate) or without a will (intestate).

Probate is the process of legally establishing the validity of a will before a judicial authority.

Estate files for wills filed in Ontario are kept in one of two places:

- the Archives of Ontario (most files 1970 and before), or
- an Ontario courthouse (files 1971 and after).

This research guide describes how to find and use records at the Archives of Ontario and at local courthouses. Unless noted otherwise, all lists and research tools mentioned in this guide found in this Guide can be found:

- in the Archives' reading room: in a binder titled User's Guide to Surrogate Courts
- online: [click here to access the “Court Records” section of the Microfilm Interloan Catalogue](#); you will find in the Catalogue in the “How to Access Your Records” section of our website.

At the end of this guide there is a list of legal words and terms that you may come across when you are searching for a will.

You may also want to consult the pathfinder to Estate Files available in the Archives' Reading Room or [click here to access it on our website](#). This document explains how to

find wills (within estate files) that were filed with the courts between the years 1793 and 1970.

## Will Probations in Ontario – A Short History

Since 1777, three different courts have handled successions:

- From 1777 to 1792, Courts of Prerogative in each District handled succession where the person died without a will. Until 1791, wills were deposited with a notary public before the death. They were not probated in court after the death.
- From 1793 to 1858, the province-wide Court of Probate (Series RG 22-155) handled estates with property in two or more Districts valued over £5.
- From 1793 to 1858, Surrogate Courts in each District (later, each County) handled estates with property in ONLY ONE district or county.
- After 1858, Surrogate Courts became responsible for all estate actions. (The Court of Probate was abolished in 1858.)

## All Wills Are Not in Court Records

In doing your research, remember that not all wills are in court records. If the deceased person's estate consisted ONLY of real estate (e.g., farmers), the original will may have been deposited in the local Land Registry Office to transfer the land to the heirs. Some Land Registry Offices hold over 60 per cent of all surviving wills. Because they were never probated, these wills are not indexed or registered in the court records. Consult Research Guide 231, *Finding land registration records* for more information on how to find these wills.

## THE RECORDS

To find a will filed in Ontario, you must first look at an index to obtain a file number. To do so, you will need the deceased person's last name, death date (actual or approximate) and the county or district where the person had his/her main place of residence. As you do your research:

- Look for all possible variations of the deceased person's name (e.g., "Smith", "Smyth", "Smythe"). Take into account phonetic pronunciations and possible clerical or typographical errors.
- If you do not find a mention of the estate file for the first few years after the death, you may want to search further — a will may have been probated several decades after the death.
- Try to get the location (county or district) where the person died. If you do not find an estate file in a certain county, check the county/district where the rest of the family lived or where the deceased person lived for most of his/her life. Keep in mind the district's or county's date of creation since earlier estate files would have stayed at the court where they were probated.
- Courthouses use different columns in their indexes to record estate file numbers. Check the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels or the Microfilm Interloan Catalogue for instructions on how to use the indexes for the relevant county/district. Some courthouses renumber their estate files on January 1<sup>st</sup>, either

annually or every few years. Record both the file number and the year (if given) corresponding to the deceased person's name.

## Finding Estate Files 1971 and after

Estate files probated in 1971 or after are at the local courthouse. Table 1 at the end of this guide has the courthouse contact information. The following chart describes how to find the records you need.

Location	How to Get the Records
<ul style="list-style-type: none"> <li>• Kenora (to 1973)</li> <li>• Parry Sound (to 1986)</li> <li>• Rainy River (to 1977)</li> </ul>	<p>The Archives of Ontario holds the indexes on microfilm, See either the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels or <a href="#">click here to access the Microfilm Interloan Catalogue</a> to find the microfilm numbers (look up the table for the appropriate county/district).</p> <p>Once you have viewed the film and found the file number and year, contact the local courthouse (Table 1)</p>
Other counties/dates	Contact the local courthouse (see Table 1 at the end of this guide)

## Finding Estate Files 1970 and before

Most estate files dated 1970 and before are in the Archives' collection (records for some of the smaller courthouses are transferred to the Archives every few years only). The following section describes how to find these estate files.

Some indexes for records dated 1970 and before (that the Archives of Ontario has) are still at the local courthouse. Where this is the case, the information is included in both the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels and the Microfilm Interloan Catalogue. First, contact the courthouse (see Table 1 at the end of this guide) for the file number and year and then contact the Archives.

Courthouses used different columns in their indexes to record estate file numbers. Check the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels or the Microfilm Interloan Catalogue for instructions on how to use the indexes for the relevant county/district. Some courthouses renumber their estate files on January 1<sup>st</sup>, either annually or every few years. Record both the file number and the year (if given) corresponding to the deceased person's name. Contact the courthouse (see Table 1) to retrieve the records you need.

*If there is no Index listed* in the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels or the Microfilm Interloan Catalogue for a particular county, use the microfilm reel of the Register Book for the appropriate years. The estate file numbers

will be listed in the index either at the beginning or end of the volume, or in the margin of the page indicated. *Not all registers are available through interloan.* If you do not find a register for a given county/district and year in the Microfilm Interloan Catalogue, check the User's Guide or consult one of our a reference staff.

*If you do not know the county where the will was probated:* Check the Applications for Probate - Application Books and Index Books (Series RG 22-514). They list every estate file from 1859 to 1982 and the courthouse that handled it. The Archives has these records on microfilm. See either the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels or [click here to consult the Microfilm Interloan Catalogue](#) for instructions on finding and using the microfilm reels you need. Once you know the county and the year, follow the instructions below on how to find the estate file. (Please note that the application number in these records does not match the estate file number used by the courthouse).

## Instructions for Finding Estate Files 1970 and before

Estate Probate Date	Record Location	How to Get the Records
Before 1793	<p>The Archives of Ontario has records of the Court of Prerogatives for the Districts of Hesse (series RG 22-6) and Lunenburg (series RG 22-7). These records are described in the online Archives Descriptive Database, in the “Start Your Research” section of our website.</p> <p><i>Note: Records of the Surrogate Court for Essex County and Leeds and Grenville County include some pre-1793 estate files. See the instructions (below) for finding records from 1793 to 1859.</i></p>	<ul style="list-style-type: none"> <li>• The series descriptions include the names of individuals documented in these series.</li> <li>• These records are located offsite, and can only be consulted in the Archives’ Reading Room. We recommend ordering the file <i>a week or so in advance of a visit</i>; requests submitted in the reading room take <i>one business day</i>. Copying these records takes <i>from five to seven business days</i>.</li> </ul>
1793 to 1859	<p>The Archives has these records on microfilm</p>	<ul style="list-style-type: none"> <li>• <a href="#">Click here to search Archives Descriptive Database</a> for the name of the deceased.</li> <li>• Click on the list of file/items (please note, you may get entries not related to estate files). Entries for estate files from the Court of Probate include the name of the deceased, date of probate, occupation, location of the death, and microfilm reel number. Entries for estate files from the Surrogate Courts include the name of the deceased, year of probate, county and microfilm reel number. Entries for some counties also have a file number: write it down.</li> <li>• Write down all the information you have found, then retrieve the microfilm (in the Reading Room) or order it through your local library.</li> <li>• If you do not find the name you are looking for, records may exist if the person died without a will and the heirs applied to the Surrogate Court to have an administrator appointed for the</li> </ul>

Estate Probate Date	Record Location	How to Get the Records
		<p>succession. Go the section for estate probate dates 1859 to 1930 for instructions on using the indexes to find the records you need.</p>
<p>1859 to 1930 – Published Indexes</p>	<p>The Archives has printed indexes (in the Reading Room) for estate files for the following counties <i>up to 1900 only</i>, the estate files are on microfilm: Brant, Bruce, Carleton, Dufferin, Elgin, Essex, Frontenac, Grey, Haldimand, Halton, Hastings, Huron, Kent, Lambton, Leeds and Grenville, Lennox and Addington, Lincoln, Norfolk, Northumberland and Durham, Ontario, Peel, Perth, Peterborough, Prescott and Russell, Prince Edward, Renfrew, Simcoe, Stormont and Dundas, Glengarry, Victoria (including Haliburton), Waterloo, Welland and Wellington.</p>	<ul style="list-style-type: none"> <li>• If you have the deceased person's name: <ul style="list-style-type: none"> <li>◦ Write down the <i>estate file number</i> and <i>year</i></li> </ul> </li> <li>• Go to the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels and use the section for the county to find which microfilm reel corresponds to the file number and year. These reels are available both in the Archives' Reading Room and through microfilm interloan.</li> <li>• Follow the instructions below if you want to access the indexes and the files through interloan.</li> </ul>
<p>1859 to 1930 – Original Indexes</p>	<p>The Archives has all the indexes and estate files for all counties on microfilm, available in the Archives' Reading Room and through interloan.</p>	<ul style="list-style-type: none"> <li>• Check the indexes first. They will give you the name, year of the file, and file number. See either the User's Guide to Surrogate Courts and Surrogate Clerk Microfilm Reels or <a href="#">click here to consult the Microfilm Interloan Catalogue</a> for instruction on finding and using the microfilm reels you need.</li> <li>• Once you have found the file number and the year, write them down and return to the User's Guide or <a href="#">click here to consult the Microfilm Interloan Catalogue</a> to get the number for the microfilm reel that has the file.</li> </ul>
<p>1931 to 1970</p>	<p>Most indexes are on microfilm, available in the Archives' Reading Room and through</p>	<ul style="list-style-type: none"> <li>• Check the indexes first. They will give you the name, year and file number. See either the User's Guide to Surrogate Courts</li> </ul>

Estate Probate Date	Record Location	How to Get the Records
	<p>interloan. . Some indexes are still with the local courthouse and you will need to contact the courthouse (Table 1) for the file number and year before contacting us.</p> <p>Estate files are available only in their original formats. Most are held by the Archives, and are located off-site. See the notes on York (including Toronto) and Prince Edward County files in “How to Get the Records.”</p>	<p>and Surrogate Clerk Microfilm Reels or <a href="#">click here to consult the Microfilm Interloan Catalogue</a> for instructions on finding and using the microfilm reels you need.</p> <ul style="list-style-type: none"> <li>• The files are located offsite, and can only be consulted in the Archives’ Reading Room. Contact one of our reference staff in-person or by e-mail with the name, county, estate file number and year. We recommend ordering the file a <i>week or so in advance of a visit</i>; requests submitted in the reading room take <i>one business day</i>. Copying these records takes <i>from five to seven business days</i>.</li> <li>• Some smaller county/district courthouses still have estate files before 1969. This information is included in the User’s Guide and <a href="#">click here to consult the Microfilm Interloan Catalogue</a>.</li> <li>• Indexes for York County (including Toronto) for 1931 to 1967 are on microfilm, available in the Reading Room and through Interloan. The files are on microfilm, available in the Reading Room only.</li> <li>• The indexes for 1968 to 1970 are with the Courthouse (Table 1). You will need to contact them for the file number and year before contacting us.</li> <li>• Prince Edward County records dating from 1931 to 1970 are at the Prince Edward County Historical Society in Picton. Contact: Prince Edward Historical Society Box 69, Bloomfield ON, K0K 1G0 613-393-2204 <ul style="list-style-type: none"> <li>○ Please contact the historical society for information about hours of operation and services. You may need to leave a voice mail message when you call and a volunteer will get back to you as soon as possible.</li> </ul> </li> </ul>

## **Words and Terms Related to Estate Files**

### *Administrator/ Administratrix:*

This is the person (male/female) that the Court appoints to distribute the estate of a person who died without a will.

### *Dependents' Relief Act:*

This act is the Ontario law that permits a spouse or child to obtain benefits from an estate if the will did not provide for them.

### *Encroach:*

Encroach is paying out to a beneficiary money or assets held in trust.

### *Escheat:*

Escheat is the Government's seizure of an estate when there is no will or next-of-kin.

### *Estate File:*

The estate file has all the documents needed to grant Letters Probate or Letters of Administration. It includes the petition for probate or administration, the original will, the oaths of executors or administrators, tally of assets and related evidence.

### *Executor/Executrix:*

This is the person (male/female) that a will names to distribute the estate.

### *Index:*

The index has the number of the deceased's estate file and/or the register and page number. It is organized by surname initial and date.

### *Intestate:*

Intestate refers to a person who dies without making a will or the act of dying without a will.

### *Letters of Administration with Will Annexed:*

This refers to the court grant appointing an administrator to distribute the estate of a person dying without a will (intestate) or where the executor/executrix that the will names has since died.

### *Letters Probate:*



Letters Probate are the court grant confirming the executor/executrix named in the will. It includes the official transcript of the will.

*Life interest:*

These are benefits that a will awards to a beneficiary to be enjoyed only during the beneficiary's life.

Register:

The register has a transcription of the will (if it exists) and the Court's copy of the grant of probate or administration. Some Counties had separate Probate and Administration Books (the will is in the former).

*Succession Duty Act (1892):*

This is the Ontario law requiring the payment of duty on estates. The act requires there to be a full valuation made of the estate with a beneficiaries' roll listing their relationship (if any) to the deceased. Proof of payment of all duties had to be filed with the Court before the estate could be finally probated.

*Testate:*

Testate refers to a person who dies and has made a will or the act of dying with a will.

Testator/Testatrix:

This refers to a person (male/female) who makes a will.

*Will:*

A will is a deposition made before witnesses that outlines the deceased's final wishes. It may include later codicils (changes). The original will was filed in the estate file and a transcription was copied into the register. Early courts allowed wills to be registered "in anticipation" but this does not mean they were eventually probated.

## **MAKING CONTACT**

### **Ready and Willing**

Although unable to do your will research for you, our reference staff are waiting to assist you. You may telephone or write to them by mail or email or — best of all — visit the Archives of Ontario.

### **Contact us**

Telephone: 416-327-1600 Toll free (Ontario): 1-800-668-9933

Fax: 416-327-1999

Email: [Click here to email the Archives of Ontario](#)

**Address:** Archives of Ontario, 134 Ian Macdonald Blvd., Toronto, ON M7A 2C5

### **Website**

For information about the Archives' holdings, as well as access to research guides and other customer service materials available through the Archives of Ontario, [click here to visit our website.](#)

### **Customer Service and Research Guides**

The Archives of Ontario has published a series of in-depth research guides on a variety of specific topics. For more information, please see "Research Guides and Tools" under "Accessing Our Collection" the home page of the Archives website.

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This information is provided as a public service. Although we endeavour to ensure that the information is as current and accurate as possible, errors do occasionally occur. Therefore, we cannot guarantee the accuracy of the information. Readers should where possible verify the information before acting on it.

**TABLE #1: Ontario Courthouse Addresses and Telephone Numbers**

<b>County or District</b>	<b>Courthouse Address</b>
Algoma	Superior Court of Justice 426 Queen Street East Sault Ste. Marie, Ontario P6A 1Z7 705-945-8000, ext. 450
Brant	Superior Court of Justice 70 Wellington Street Brantford, Ontario N3T 2L9 519-752-7828
Bruce	Superior Court of Justice 207 Cayley Street PO Box 39 Walkerton, Ontario N0G 2V0 519-881-1052
Carleton	Superior Court of Justice 161 Elgin Street, 2 <sup>nd</sup> Floor Ottawa, Ontario K2P 2K1 613-239-1054
Cochrane	Superior Court of Justice 149 Fourth Avenue PO Box 638 Cochrane, Ontario P0L 1C0 705-272-4256
Dufferin	Superior Court of Justice 10 Louisa Street, 1 <sup>st</sup> Floor Orangeville, Ontario L9W 3P9 519-941-5802
United Counties of Northumberland and Durham	– <i>see Northumberland &amp; Durham</i>
Durham	Superior Court of Justice 150 Bond Street E. Oshawa, Ontario L16 0A2 905-743-2630  <i>Before 15/10/1973, see Northumberland &amp; Durham</i>
Elgin	Superior Court of Justice 4 Wellington Street St. Thomas, Ontario N5R 2P2 519-633-1720
Essex	Superior Court of Justice 245 Windsor Avenue

<b>County or District</b>	<b>Courthouse Address</b>
	Windsor, Ontario N9A 1J2 519-973-6620
Frontenac	Superior Court of Justice 5 Court Street Kingston, Ontario K7L 2N4 613-548-6811
Glengarry	<i>see Stormont, Dundas &amp; Glengarry</i>
Grenville	<i>see Leeds</i>
Grey	Superior Court of Justice 611-9 <sup>th</sup> Avenue East Owen Sound, Ontario N4K 6Z4 519-370-2430
Haldimand	Superior Court of Justice 55 Munsee Street N. Cayuga, Ontario N0A 1E0 905-772-3335
Haliburton	<i>see Victoria</i> There is no separate courthouse for Haliburton County. For any will (or other court records) for that county, see Victoria.
Halton	Superior Court of Justice 491 Steeles Avenue East Milton, Ontario L9T 1Y7 905-878-7281
Hamilton-Wentworth	<i>see Wentworth</i>
Hastings	Superior Court of Justice 15 Bridge Street W. Belleville, Ontario K8P 0C7 613-962-9106
Huron	Superior Court of Justice 1 Courthouse Square Goderich, Ontario N7A 1M2 519-524-2519
Kenora	Superior Court of Justice 216 Water Street, Room 211 Kenora, Ontario P9N 1S4 807-468-2842
Kent	Superior Court of Justice 425 Grand Ave. West Chatham, Ontario N7M 6M8 519-355-2200
Lambton	Superior Court of Justice 700 N. Christina Street Sarnia, Ontario N7V 3C2 519-333-2950
Lanark	Superior Court of Justice 43 Drummond Street East Perth, Ontario

<b>County or District</b>	<b>Courthouse Address</b>
	K7H 1G1 613-267-2021
Leeds & Grenville	Superior Court of Justice 41 Court House Square Brockville, Ontario K6V 7N3 613-341-2800
Lennox & Addington	Superior Court of Justice 97 Thomas Street E. Napanee, Ontario K7R 4B9 613-354-3845
Lincoln	Superior Court of Justice 59 Church Street, 1 <sup>st</sup> Floor St. Catharines, Ontario L2R 7N8 905-988-6200
Manitoulin	Superior Court of Justice 27 Phipps Street Gore Bay, Ontario P0P 1H0 705-282-2461
Middlesex	Superior Court of Justice 80 Dundas Street London, Ontario N6A 6A3 519-660-3000
Muskoka	Superior Court of Justice 3 Dominion Street North Bracebridge, Ontario P1L 2E6 705-645-8793
Niagara North	<i>see Lincoln</i>
Niagara South	<i>see Welland</i>
Nipissing	Superior Court of Justice 360 Plouffe Street North Bay, Ontario P1B 9L5 705-495-8309
Norfolk	Superior Court of Justice 50 Frederick Hobson VC Drive Simcoe, Ontario N3Y 4L5 519-426-6550
Northumberland & Durham	Superior Court of Justice 860 William Street Cobourg, Ontario K9A 3A9 905-372-3751  <i>After 15/10/1973, see Durham</i>
Ontario (pre-1974 files)	<i>see Durham</i>
Ottawa-Carleton	<i>see Carleton</i>
Oxford	Superior Court of Justice 415 Hunter Street, PO Box 70 Woodstock, Ontario

<b>County or District</b>	<b>Courthouse Address</b>
	N4S 4G6 519-539-6187
Parry Sound	Superior Court of Justice 89 James Street Parry Sound, Ontario P2A 1T7 705-746-4251
Peel	Superior Court of Justice 7755 Hurontario Street Brampton, Ontario L6W 4T1 905-456-4700
Perth	Superior Court of Justice 1 Huron Street Stratford, Ontario N5A 5S4 519-271-1850
Peterborough	Superior Court of Justice 70 Simcoe Street Peterborough, Ontario K9H 7G9 705-876-3816
Prescott & Russell	Superior Court of Justice 59 Court Street, 2 <sup>nd</sup> Floor L'Orignal, Ontario K0B 1K0 613-675-4567
Prince Edward	Superior Court of Justice 44 Union Street PO Box 680 Picton, Ontario K0K 2T0 613-476-6236
Rainy River	Superior Court of Justice 333 Church Street Fort Frances, Ontario P9A 1C9 807-274-5961
Renfrew	Superior Court of Justice 297 Pembroke Street E. Pembroke, Ontario K8A 3K2 613-732-8581
Simcoe	Superior Court of Justice 75 Mulcaster Street Barrie, Ontario L4M 3P2 705-739-6111
Stormont, Dundas and Glengarry	Superior Court of Justice 29 Second Street West Cornwall, Ontario K6J 1G3 613-933-7500
Sudbury	Superior Court of Justice 155 Elm Street Sudbury, Ontario

<b>County or District</b>	<b>Courthouse Address</b>
	P3C 1T9 705-564-7600
Thunder Bay	Superior Court of Justice 125 Brodie Street N. Thunder Bay, Ontario P7C 0A3 807-626-7100
Timiskaming	Superior Court of Justice 393 Main Street PO Box 609 Haileybury, Ontario P0J 1K0 705-672-3321
Victoria	Superior Court of Justice 440 Kent Street West Lindsay, Ontario K9V 6K2 705-324-1400
Waterloo	Superior Court of Justice 85 Frederick Street Kitchener, Ontario N2H 0A7 519-741-3200
Welland	Superior Court of Justice 102 East Main Street Welland, Ontario L3B 3W6 905-735-0010
Wellington	Superior Court of Justice 74 Woolwich Street Guelph, Ontario N1H 3T9 519-824-4100
Wentworth	Superior Court of Justice 55 Main Street West Hamilton, Ontario L8P 1H4 905-645-6250
York 1967-1980  City of Toronto 1980-present	Superior Court of Justice - Estates Division 330 University Avenue, 7th floor Toronto, Ontario M5G 1R7 416-326-2940
York, Regional Municipality  1980-present	Superior Court of Justice - Estates Division 330 University Avenue, 7th floor Toronto, Ontario M5G 1R7 416-326-2940