

CASE NO.**VOL. NO.****PAGE**RAYMOND BRIMICOMBE
and DAISY FOGARTY

- and -

PANSY BRIMICOMBE,
EXECUTRIX OF THE
ESTATE OF GENEVIEVE
BRIMICOMBE

(Appellants)

(Respondent)

CA 158293

Halifax, N.S.

FLINN, J.A.

[Cite as: Brimicombe v. Brimicombe Estate, 2000 NSCA 67]**APPEAL HEARD:**

May 12, 2000

JUDGMENT DELIVERED:

May 19, 2000

**SUBJECT: PROBATE - LOST WILL - PRESUMPTION OF
REVOCATION - WHETHER REBUTTED BY
EVIDENCE****SUMMARY:**

Testatrix died in 1997. In 1995 she executed, in the presence of her lawyer and the lawyer's articulated clerk, a new will. Upon her death, and in the place where the testatrix usually kept her important papers was a sealed envelope marked "Last Will and Testament of Genevieve Brimicombe". Inside the envelope was a copy of the will which the testatrix executed in 1995. An extensive search by the executor and by the testatrix's lawyer failed to turn up the original document. The Registrar of Probate admitted a copy of the will into probate. The appellants, two of the children of the testatrix, appeal that decision.

RESULT:

Appeal dismissed. The Court of Appeal reviewed the evidence in detail and concluded, on that evidence, that any presumption of revocation that arose in this case had been rebutted.

<p>This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 26 pages.</p>
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