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Date: **April 20,2020**

Recipient's name and address:

**Hala Tabl**  
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**200-15 Fitzgerald Road**  
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## ERRORS IN AN APPLICATION FOR A CERTIFICATE OF APPOINTMENT OF ESTATE TRUSTEE WITHOUT A WILL

Estate of **Joachim Von Dehn**

File No. **2020-59**

**The application cannot be processed because it is incomplete for the reason(s) indicated below.** Please return the completed application to the Superior Court of Justice at the above address. Please note that it is your responsibility to ensure that your application meets all legislative requirements. Your application may be returned to you again if another error is found.

- The estate forms prescribed by the *Rules of Civil Procedure* (rules of court) have not been used. Many of the estates forms under Rule 74 are provided in a pre-formatted and fillable format at: [www.ontariocourtforms.on.ca/english/civil/pre-formatted-fillable-estates-forms](http://www.ontariocourtforms.on.ca/english/civil/pre-formatted-fillable-estates-forms). The content of all regulated forms may be found at the following website: [www.ontariocourtforms.on.ca/english/civil](http://www.ontariocourtforms.on.ca/english/civil). The forms must be in compliance with Rule 4, the rule governing the format and content of court documents. To access an electronic version of the *Rules*, visit: [www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_900194\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900194_e.htm).
- Proof of death must be filed, such as a death certificate issued by the Registrar General, a certificate in respect of death issued by a funeral director, or an order made under the *Declarations of Death Act, 2002*. Proof of death documents must be originals or certified /notarial copies.
- Insert the name and address of solicitor, or applicant if acting in person, in the space near the top of form 74.14 where the form states "This application is filed by".
- Answer all applicable questions on the Application (form 74.14).
- Deceased's name should be exactly the same on all documents, or indicate "also known as" name on all documents.
- The occupation of deceased and/or the estate trustee(s) must be the same on all documents.
- An answer to a question on the application indicates that it is unclear whether an earlier marriage of the deceased person had been terminated by divorce. Please attach a schedule to the application with more information including the date of the marriage, date of divorce and steps that have been taken to verify that the divorce has taken place.
- On form 74.14, where the applicant explains why he or she is entitled to apply for the certificate of appointment of estate trustee, information must be added relating to consent given by persons who are entitled to a share in the distribution of the estate and who, together, have a majority interest in the value of the assets of the estate.
- Form 74.18 Renunciation of Prior Right to a Certificate of Appointment of Estate Trustee without a Will

must be filed.

- On form 74.14, where persons entitled to share in the estate are listed, a person is listed who is not a spouse, child, parent, brother or sister of the deceased. Set out the family relationship between the deceased and that person which explains why he or she is entitled to share in the estate.
- All persons entitled to share in the estate must be served a form 74.17 Notice of Application, or an explanation must be given in form 74.16 Affidavit of Service of Notice as to why a person has not been served.
- A bond must be filed per section 35 of the *Estates Act*, or dispensed with by court order. See *Estates Act* on the e-laws website: [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90e21\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e21_e.htm). See also Rule 74.11 of the *Rule of Civil Procedure* at the website listed above.
- Where the applicant seeks an order dispensing with the requirement to file a bond, consent to the Applicant's Appointment as Estate Trustee Without a Will (form 74.19) must be received from **all** persons entitled to share in the estate and filed with the court.
- The applicant has sought an order to dispense with the requirement to post a bond, or reduce the amount of the bond. The applicant must file an affidavit stating that the debts have been paid, or list all the debts outstanding, and provide information about whether the deceased owned any businesses.
- The draft order dispensing with a bond must contain both the prescribed header and proper backsheet.
- All changes to the application must be initialled by the same commissioner for taking affidavits.
- On form 74.20, the address of the court must be typed under the Registrar's signature line. The address is listed at the top of this notice.
- In completing the affidavit at the end of form 74.14, the applicant's surname must be set out first.
- Estate administration tax must be paid. See the *Estate Administration Tax Act, 1998* on the e-laws website: [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_98e34\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_98e34_e.htm).
- Incorrect amount of tax or no tax paid. The formula for calculating the amount of tax is set out in the *Estate Administration Tax Act, 1998* as follows: \$15 for each \$1,000 or part thereof by which the value of the estate exceeds \$50,000.
- Please file a new certificate (form 74.20) and **do not** fill in the date.
- The applicant must be an Ontario resident. See section 5 of the *Estates Act* on the e-laws website: [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90e21\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e21_e.htm).
- Form 74.17 Notice of Application must be marked as "Exhibit 'A'" to the form 74.16 Affidavit of Service of Notice. The exhibit must be stamped and signed by the same commissioner for taking affidavits.
- Other: Our office requires the original Affidavit of Service of Notice

**Please return this notice with your documents.**