

**IN THE MATTER OF A REQUEST FOR REVIEW  
UNDER THE 1986-1990 HEPATITIS C CLASS ACTION  
SETTLEMENT AGREEMENT**

**BETWEEN:**

**CLAIM NO. 51  
FROM THE PROVINCE OF ONTARIO**

**- AND -**

**THE ADMINISTRATOR OF THE HEPATITIS C  
CLASS ACTION SETTLEMENT**

COUNSEL:

John C. Plater  
for the Claimant

Belinda A. Bain  
Fund Counsel representing the Administrator

**DECISION**

Claimant No. 51 seeks a review of a decision dismissing her claim as a Secondly-Infected Person under the Hemophiliac HCV Plan forming part of the 1986-1990 Hepatitis C Class Action Settlement Agreement. Claimant No. 51 claims that, at relevant times, she was a spouse of a primarily-infected person whose claim was approved under the Plan. That primarily-infected person died in October 2005.

The claimant in this review had her claim denied on the ground that she did not fall within the definition of spouse to qualify her as a secondarily-infected person under the Plan.

Spouse is defined under the Plan as follows:

'Spouse' means:

1. (a) either of a man and a woman who,
  - i. (i) are married to each other;
  - ii. (ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Plan;
  - iii. (iii) have Cohabited for at least two years; or
  - iv. (iv) have Cohabited in a relationship of some permanence if they are the natural Parents of a Child; or
2. (b) either of two persons of the same sex who have lived together in a close personal relationship that would constitute a conjugal relationship if they were not of the same sex,
  - i. (i) for at least two years; or
  - ii. (ii) in a relationship of some permanence if they are the Parents of a Child.

Cohabit is defined under the Plan as follows:

'Cohabit' means: to live together in a conjugal relationship, whether within or outside marriage.

The term "conjugal relationship" is not defined under the Plan.

The claimant stated that she and the primarily-infected person did not live together and they did not merge their finances or otherwise present themselves as a cohabiting couple so they could both continue to receive social assistance.

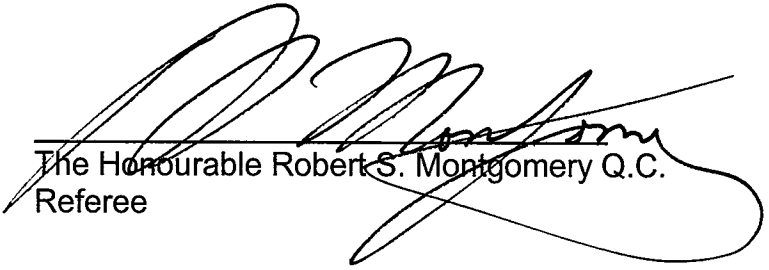
It is conceded by the claimant that the primarily-infected person continued to live with his mother during the course of their relationship notwithstanding considerable time spent in the claimant's bedroom as well. They never mixed their finances. They structured their affairs so they would not be a common law couple.

Cohabit means to live together. The claimant says they did not live together.

I conclude that, because they never married, did not live together and kept separate homes and structured their relationship as they did, they were not a couple. I find as a fact the claimant was not a spouse of the primarily-infected person.

The appeal, therefore, fails and the claim is dismissed.

Dated at Toronto, this 11<sup>th</sup> day of September 2007.

  
The Honourable Robert S. Montgomery Q.C.  
Referee