

Decision No: [2012] NZREADT 8

Reference No: READT 025/11

**IN THE MATTER OF** an appeal under s 111 of the Real Estate Agents Act 2008

**BETWEEN** **JAMES BRIAN CONQUER**

Appellant

**AND** **REAL ESTATE AGENTS  
AUTHORITY (CAC 10011)**

First Respondent

**AND** **JOHN ROUTEN**

Second Respondent

**BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL**

Ms K Davenport – Chairperson  
Mr J Gaukrodger – Member  
Mr G Denley – Member

**APPEARANCES**

Mr T Rea – on behalf of the appellant  
Mr L Clancy – for first respondent

**DECISION**

[1] Mr Conquer appeals the decision of the Complaints Assessment Committee 10011 dated 19 November 2010 in an appeal to a decision dated 9 February 2011. The Tribunal's powers on appeal are contained in s 111 of the Real Estate Agents Act 2008. The Tribunal can confirm, reverse or modify the determination of the Complaints Assessment Committee.

[2] The Tribunal found at paragraph 4.9 of its decision that after taking into account the facts that they set out that despite the good intentions the licensee fell short of his obligation to keep the complainant well informed about how the auction would operate, what he could expect to happen during the auction process and the role that the licensee would be playing for the complainant throughout this critical time. A consequence of this breakdown in communication was that the complainant and his wife felt isolated and intimidated during the auction and their perceived lack of support from the licensee at this time compounded the problem. The Complaints Assessment Committee found that the complainant and his wife could not understand what was happening at the crucial times and this is what led to the complaint now before it.


[3] The Tribunal has heard today from Mr Conquer and Ms Conquer, Mr Routen did not attend. For reasons which will be set out in our written decision we reverse the decision of the Complaints Assessment Committee. We consider that some of the conduct of Mr Conquer might on subsequent reflection have been unwise but it did not amount in a disciplinary sense to unsatisfactory conduct and we uphold the appeal.


[4] Pursuant to s 113 of the Act the Tribunal advises the parties of the existence of the right to appeal this decision to the High Court as conferred by s 116 of the Act.

**DATED** at AUCKLAND this 29 day of March 2012

  
Ms K Davenport  
Chairperson



  
Mr J Gaukrodger  
Member

  
Mr G Denley  
Member