

**BEFORE THE IMMIGRATION ADVISERS
COMPLAINTS AND DISCIPLINARY TRIBUNAL**

Decision No: [2013] NZIACDT 57

Reference No: IACDT 058/12

IN THE MATTER

of an appeal under s 54 of the
Immigration Advisers Licensing Act 2007

BETWEEN

BL

Complainant

AND

SFK

Adviser

AND

The Registrar of Immigration Advisers

Registrar

DECISION

REPRESENTATION:

Complainant: In person

Adviser: In person

Registrar: In person

Date Issued: 3 September 2013

DECISION

Discussion

The appeal

- [1] Mr BL lodged a complaint with the Registrar. The substance of his complaint was that:
 - [1.1] Ms SFK advised him a NZQA assessment of his qualifications from the University of the South Pacific was required.
 - [1.2] He discovered that his qualification was exempt from requiring assessment.
 - [1.3] Ms SFK accepted her advice was erroneous. However, she said that was due to the way Immigration New Zealand had published the information, and many advisers had read the information in the same way.
 - [1.4] Without admitting liability, Ms SFK offered to reimburse Mr BL some of the costs. The deduction was a fee of \$50 as Mr BL missed an appointment. The result was a refund of \$88.
 - [1.5] Mr BL was not satisfied for two reasons:
 - [1.5.1] He had not made and missed an appointment; and
 - [1.5.2] A standard appointment was \$20 not \$50.
- [2] Mr BL alleged that this amounted to incompetence, and dishonest or misleading behaviour.
- [3] The Registrar addressed the complaint and determined under section 45(1)(c) the complaint disclosed only a trivial or inconsequential matter.
- [4] Mr BL has appealed to the Tribunal against the Registrar's decision. His grounds of appeal are:
 - [4.1] The advice he received was misleading or incorrect, and resulted in a monetary loss.
 - [4.2] The claim that Mr BL missed an appointment was raised in circumstances that made it dubious.
 - [4.3] The consultation fee was \$20, so a penalty of \$50 for a missed appointment was abusive.
 - [4.4] The issue is one of principle, and Mr BL has been subject to improper practice.
 - [4.5] The Registrar failed to investigate the complaint properly.

Evaluation

- [5] It appears the Registrar has considered that the amount in issue was trivial, namely \$50. The reasons for doing so are understandable, and Mr BL's submission it is a matter of principle is only an adequate response in some circumstances.
- [6] The reality is that it is costly to investigate and process a complaint. It is entirely appropriate to weigh that factor. Other forums deal with small financial disputes, the Registrar should only refer complaints that raise professional disciplinary issues that reach the threshold under section 45.
- [7] There are of course cases where the amount in issue may be very small and the complaint a serious one. Dishonesty of any kind is serious, regardless of the amount. Furthermore, a small defalcation may point to systematic dishonesty.

- [8] Mr BL has advanced his complaint on the basis Ms SFK was dishonest. He says she was dishonest and incompetent initially, then misconstrued the circumstances and charged him a penalty.
- [9] However, there is nothing before me to support these claims. Ms SFK has explained that there were reasons why her initial advice was in error; there is nothing in the papers to demonstrate that is wrong, or that what she says requires further investigation.
- [10] I am satisfied there is nothing in the papers that demonstrates there is any element of deception or improper conduct.
- [11] I consider the Registrar correctly regarded the complaint as disclosing nothing more than a dispute over \$50, which raised only trivial or inconsequential matters concerning professional conduct.

Decision

- [12] The appeal is rejected pursuant to section 54(3) of the Act.

DATED at WELLINGTON this 3rd day of September 2013

G D Pearson
Chairperson