

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

[2018] NZREADT 50

READT 042/18

IN THE MATTER OF

An Application for Review of a Registrar's
decision, under Section 112 of the Real
Estate Agents Act 2008

BETWEEN

FIROZ KHAN
Applicant

AND

THE REGISTRAR OF THE REAL
ESTATE AGENTS AUTHORITY
Respondent

On the papers

Tribunal:

Hon P J Andrews (Chairperson)
Mr G Denley (Member)
Mr N O'Connor (Member)

Submissions received from:

Mr Khan
Ms Mok, on behalf of the Registrar

Date of Decision:

13 September 2018

DECISION OF THE TRIBUNAL

Introduction

[1] On 31 January 2018, the Registrar gave Mr Khan notice of the Registrar's intention to cancel his salesperson's licence as from 21 February 2018, on the grounds that he had failed to complete the required verifiable continuing education for the 2017 calendar year. As required by s 55 (1) of the Real Estate Agents Act 2008 ("the Act"), Mr Khan was advised in the notice that he had ten working days within which he could make written representations to the Registrar as to why his licence should not be cancelled.

[2] Mr Khan did not respond to the notice, and did not make any representations as to why his licence should not be cancelled.

[3] Mr Khan was advised in a letter dated 21 February 2018, sent to him at the address provided by him, that his licence had been cancelled by the Registrar on that date.

[4] Pursuant to s 112 of the Act, an application may be made to the Tribunal to review a determination of the Registrar within 20 working days after the date after the applicant was notified of the Registrar's determination. Accordingly, the time in which Mr Khan could have applied for review of the Registrar's determination ended on or about 27 March 2018.

[5] By an application dated 27 July 2018 (received by the Tribunal on 8 August 2018), Mr Khan applied for review of the Registrar's determination to cancel his licence. He stated his reason for not completing his verifiable continuing education requirements as being that he had been the sole carer for his mother, who had passed away on 27 March 2018. Medical certificates and statements annexed to Mr Khan's application attested to the fact that his mother had been diagnosed with cancer in September 2017 and had passed away on 27 March 2018, and that Mr Khan had cared for her in the latter stages of her illness.

[6] Mr Khan's application for review was made on 27 July 2018, four months after the time in which he could do so had expired. It is well out of time.

[7] The Act does not make any provision allowing the Tribunal to extend the time within which an application for review may be filed. Accordingly, the Tribunal has no jurisdiction to do so in this case.

[8] Accordingly, Mr Khan's application for review must be dismissed, as the Tribunal has no jurisdiction to consider it.

[9] Pursuant to s 113 of the Act, the Tribunal draws the parties' attention to s 116 of Act, which sets out the right of appeal to the High Court. The procedure to be followed is set out in part 20 of the High Court Rules.

Hon P J Andrews
Chairperson

Mr G Denley
Member

Mr N O'Connor
Member