

CONCERNING

An application for review pursuant to Section 193 of the Lawyers and Conveyancers Act 2006

AND

CONCERNING

a determination of the Canterbury/Westlands Standards Committee 3

BETWEEN

JL
of South Island
Applicant

AND

RP
of South Island
Respondent

APPLICATION FOR REVIEW OF STANDARDS COMMITTEE DECISION

[1] On 8 August 2011 the Standards Committee issued a decision in respect of a complaint made by the Applicant against the Practitioner. The Committee declined to uphold the complaint pursuant to section 138(1) of the Lawyers and Conveyancers Act 2006 (the Act).

[2] The Applicant filed an application to have that decision reviewed. His review application was received by this office on 17 October 2011.

[3] I am required to address the issue of whether the application for review can be considered as a matter a jurisdiction. The application was filed after the expiry of the statutory time frame for a review application to be made.

[4] Section 198 of the Lawyers and Conveyancers Act 2006 provides that:

Every application for a review under section 193 must -

- (a) be in the prescribed form; and
- (b) be lodged with the Legal Complaints Review Officer within 30 working days after the determination, requirement, or order is made, or the

direction is given, or the function or power is performed or exercised, by the Standards Committee (or by any person on its behalf or with its authority); and

(c) be accompanied by the prescribed fee (if any).

[5] The decision of the Standards Committee was made when it was despatched to the parties and the role of the Committee was at an end. Information about the time frame for seeking a review was included at the end of the decision, as is required. It is stated in the following terms:

“Any application for a review of this decision by the LCRO must be made within 30 working days after the date of this decision. The contact details for the LCRO are 0800 367 6838, Private Bag 92535, Wellesley Street, Auckland 1141 or www.justice.govt.nz/tribunals/legal-complaints-review-officer/contact-us Appeals must be on the prescribed form and accompanied by the prescribed fee (\$30.67 inclusive of GST).”

[6] There is no definition of “working days” provided in the Act. That definition is provided by section 29 of the Interpretation Act 1999. In that Act the definition of “working day” is as follows:-

..... a day of the week other than-

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, and Labour Day; and
- (b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- (c) if 1 January falls on a Friday, the following Monday; and
- (d) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday

[7] By the above calculation the Applicant ought to have filed his review application no later than 19 September 2011. It was in fact received 20 days after the expiry of the statutory time frame.

[8] The provisions of s 198 of the Act are stated in mandatory terms and there is no statutory discretion to ameliorate their harshness. The obligation to comply with the procedural requirements in making an application clearly lies with the Applicant. This position is reiterated by previous decision of this office that the LCRO has no discretion to extend the timeframe.

[9] For the above reasons I decline to consider the application for review on the basis that I have no jurisdiction to do so because the formalities prescribed by s 198 of the Lawyers and Conveyancers Act were not complied with.

DATED this 19th day of March 2012

Hanneke Bouchier
Legal Complaints Review Officer

In accordance with s.213 of the Lawyers and Conveyancers Act 2006 copies of this decision are to be provided to:

JL as the Applicant
RP as the Respondent
The Canterbury/Westlands Standards Committee 3
The New Zealand Law Society