

Decision No: [2011] NZREADT 25

Reference No: READT 077/11

IN THE MATTER OF of a charge laid under s.91 of the Real Estate Agents Act 2008

BETWEEN **COMPLAINTS ASSESSMENT COMMITTEE (CAC 10063)**

Applicant

AND **RAJNEEL RAJ**
Licensed Salesperson

Defendant

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

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

Hearing: On the papers

**DECISION AS TO INTERIM SUSPENSION (NO. 2)
PURSUANT TO S 115 REAL ESTATE AGENTS ACT**

[1] On the 9th August 2011 the Complaints Assessment Committee 10063 (“CAC”) laid a charge against Mr Raj alleging disgraceful conduct in respect of issues arising out of an agreement for sale and purchase of properties at 13 Piper Place, Manukau and 14 Andover Way, Manukau.

[2] On 10th August 2011 the Tribunal issued a decision giving notice of its intention to suspend the licence of Rajneel Raj in accordance with the procedure set out in s.115 of the Real Estate Agents Act 2008. By memorandum dated 29th August 2011 counsel for the Complaints Assessment Committee advised that service had been affected on Mr Raj. An affidavit of service of Blyth Andrews sworn on 29th August 2011 was also filed. This affidavit showed that service had been affected on Mr Raj not personally but on his last known place of business. The affidavit details the attempts made by Mr Andrews to serve Mr Raj personally. Section 154 of the Real Estate Agents Act provides that any notice or document required to be served is sufficiently served if it is delivered to that person or left at the person’s usual or last named place of abode or business.

[3] The Tribunal are satisfied therefore that Mr Raj has been served in accordance with the provisions of s.154 of the Real Estate Agents Act 2008.

[4] In accordance with s.115 the Tribunal are required to ensure that the licensee has ten working days within which to make representations to the Tribunal on its notice of intention to suspend. The documents were served on 12th August 2011. The date expired on Friday 26th August 2011.

[5] Mr Raj has taken no steps, nor has he made any representations to the Tribunal.

[6] Accordingly the concerns that the Tribunal had, and which were set out in its decision of 10th August 2011, remain unanswered. There is still a significant concern that if Mr Raj is entitled to continue to retain his licence pending the hearing of these charges, that there may be a risk to the public of New Zealand. The Tribunal has therefore determined to suspend the licence of Mr Raj.

[7] This notice must be served upon Mr Raj.

[8] In accordance with s.115(3) the grounds on which the Tribunal has made the decision to suspend Mr Raj's licence are those in its 10th August decision, namely:

[a] That it is necessary or desirable to do so having regard to the interests of the public including protection to the public in light of the serious nature of the charges, namely:

[i] Making false documents for the purpose of deceiving the Bank of New Zealand to providing 100% mortgage finance;

[ii] Forgery;

[iii] Failure to disclose financial benefits derived from transactions in which the defendant acted as agent.

[9] The evidence that the Tribunal relied upon in reaching this decision came from the affidavit of Mr Gouverneur and Mr Raj's own statements to the Real Estate Agents Authority.

[10] The suspension will take effect from two working days after the date of the decision to enable Mr Raj to be served. This notice of suspension is for a period of six months or until the charge against Mr Raj is heard, whatever date is earlier.

[11] The licensee has a right of appeal to the High Court pursuant to s.116 of the Real Estate Agents Act 2008.

DATED at Auckland this 31st day of August 2011

K Davenport
Chairperson

J Gaukrodger
Member

G Denley
Member