

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

[2017] NZREADT 73

READT 127/11

IN THE MATTER OF

An application under s 112 of the Real Estate Agents Act 2008 to review a decision of the Registrar

BETWEEN

DERMOT GREGORY NOTTINGHAM
Applicant

AND

THE REGISTRAR OF THE REAL ESTATE AGENTS AUTHORITY
Respondent

On the papers

Tribunal:

Hon P J Andrews (Chairperson)
Ms N Dangen (Member)
Ms C Sandelin (Member)

Date of Ruling:

5 December 2017

RULING OF THE TRIBUNAL
(Application to dismiss proceeding for want of prosecution)

Introduction

[1] On 20 December 2011, the Tribunal received an application made by Mr Dermot Nottingham under s 112 of the Real Estate Agents Act 2008 (“the Act”) to review the Registrar’s decision, dated 2 December 2011, declining his application to renew his salesperson’s licence (“the application to review”).

[2] Since the application to review was filed, a bundle of the documents considered by the Registrar has been filed and served on Mr Nottingham (on 15 June 2012), and Mr Nottingham has filed and served “preliminary submissions” (undated, but filed on 6 September 2012).

[3] Mr Nottingham’s preliminary submissions included a submission that appeal proceedings concerning complaints involving Mr Nottingham and Mr Honey (“the appeals”) should be determined before the application for review was progressed further. In a memorandum dated 2 October 2012, counsel for the Registrar did not accept Mr Nottingham’s submission that determination of Mr Nottingham’s application for review should await determination of the appeals, but did not oppose adjournment of the application for review. In a Minute dated 5 December 2014, the application for review was adjourned sine die.

[4] Mr Nottingham has taken no steps to progress his application since that date. Telephone Directions Conferences have been adjourned on several occasions. Most recently, in a Minute dated 5 October 2017, Mr Nottingham was directed to file a memorandum by 10 November 2017, setting out whether he wished to progress his application. He did not do so, and he did not make an application for additional time to comply with the Tribunal’s direction.

[5] In a memorandum dated 23 November 2017, counsel for the Registrar submitted that Mr Nottingham’s application should be dismissed for want of prosecution, on the grounds that:

[a] Mr Nottingham has failed to comply with the Tribunal’s directions; and

[b] has generally not engaged with the proceeding; and

[c] the proceeding has now been on foot for nearly six years, with no steps having been taken by Mr Nottingham to progress it;

[6] Despite having been given the opportunity to do so, Mr Nottingham has not filed any submissions in response to the Registrar's application.

[7] Counsel for the Registrar has advised the Tribunal that Mr Nottingham has not held a licence to carry out real estate agency work for some years.

Ruling

[8] The Tribunal accepts the Registrar's submissions. In the six years since Mr Nottingham filed the application for review, he has taken no substantive steps to progress the matter to a hearing. Further, he has failed to comply with the Tribunal's directions. It is appropriate that the application be dismissed for want of prosecution, and the Tribunal directs that the application for review is dismissed for want of prosecution.

[9] Pursuant to s 113 of the Real Estate Agents Act 2008, the Tribunal draws the parties' attention to s 116 of the Real Estate Agents Act 2008, which sets out appeal rights. Any appeal must be filed in the High Court within 20 working days of the date on which the Tribunal's decision is served. The procedure to be followed is set out in part 20 of the High Court Rules.

Hon P J Andrews
Chairperson

Ms N Dangen
Member

Ms C Sandelin
Member