

IN THE MATTER OF

Complaint by under ss 73 & 74 of the Private Security Personnel and Private Investigators Act 2010 (the Act)

BETWEEN

AC

Complainant

AND

RB

Respondent

DECISION

[1] AC laid a complaint against RB. She says that Mr RB has breached the Act and the Code of Conduct for private investigators.

[2] Sections 73(2) & 74(2) of the Act states that a member of the public, such as Ms AC, may only file a complaint against a licence or certificate holder with the leave of the Authority. Sections 73(3) and 74(3) further provides that I should only grant leave if I am satisfied that Ms AC has an interest, greater than that of the public generally, in the subject matter of the complaint, and that the complaint is made in good faith and is not frivolous and vexatious. In addition any complaint must be on one of the grounds set out in those sections.

[3] Based on the information before me I accept that Ms AC has a greater interest than that of the public generally in the subject matter of her complaint. However I am not satisfied that Mr RB's actions as outlined by Ms AC either breached the Act or the Code of Conduct. If there is no factual or statutory basis for a complaint it can be defined as vexatious or frivolous.

[4] Firstly, Ms AC says Mr RB has breached the Act by failing to wear his official ID while working as a private investigator. However a private investigator is not required to display their licence or certificate of approval. Section 67 of the Act, which is the provision requiring licence and certificate holders to wear their identification badges, only applies to other classes of security workers and not to private investigators.

[5] The second ground of Ms AC's complaint is that Mr RB breached the code of conduct for private investigators by recording their conversation when she advised him she did not want the conversation recorded. The code of conduct is set out in the Private Security Personnel and Private Investigators (Code of Conduct – Surveillance of Individuals) Regulations 2011. It only covers surveillance of people and does not cover the recording of overt conversations between a private investigator and someone with whom they are talking.

[6] Best practice required Mr RB to advise Ms AC that he was recording their conversation, which he did. However the code of conduct does not require Mr RB to obtain Ms AC's consent to recording his conversation and it is not a breach of the code for Mr RB to record the conversation even though Ms AC said she did not want it recorded.

[7] The information outlined in Ms AC's complaint does not disclose a breach of the Act or the code of conduct by Mr RB or RB and Associates Limited. Therefore leave to file the complaint is refused and the complaint is dismissed.

DATED at Wellington this 17th day of February 2021

The seal is circular with a blue border containing the text "THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY". Inside the border is a central emblem featuring a crown atop a shield, which is supported by two figures. The shield is divided into four quadrants, each with a different heraldic symbol.

P A McConnell

Private Security Personnel Licensing Authority