

**IN THE MATTER OF**

A complaint by **NB** against **RS** under s 73 of the Private Security Personnel and Private Investigators Act 2010

**DECISION**

[1] NB has laid a complaint against RS. She says that RS carried out an employment investigation on behalf of GOVT although she did not hold a licence or certificate in the class of private investigator. She therefore submits RS has committed an offence under the Act.

[2] Section 73(2) of the Act states that a member of the public, such as NB, may only file a complaint with the leave of the Authority. Section 73(3) provides that I should only grant leave if I am satisfied that NB 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. Section 73(4) sets out the grounds on which a complaint can be made.

[3] RS accepts that she does not hold a licence or certificate in the class private investigator. She is however nearing retirement and has decided to focus on consultancy work which does not require her to hold a certificate as a private investigator. I note that the PSPLA has only recently issued a decision that employment investigators fall within the definition of a private investigator and therefore are required to be licenced with the PSPLA.

[4] However, s22 of the Act provides that a person is exempted from holding a licence or certificate if they are an employee of the Crown or for any act performed in the course of their employment by the Crown. In addition, s 5(4) of the Act provides that a person is not a private investigator within the meaning of the Act if they seek, obtain or supply information for or to the Crown.

[5] RS advises that GOVT obtained a legal opinion when NB raised the issue with them about the fact RS was not registered with the PSPLA. The legal advice was that GOVT could retain private investigators who are not licenced because the Crown has an exception to the rule that investigators must be licenced as set out in s 5(4) of that Act.

[6] I agree with GOVT's legal advice that RS did not need to hold a certificate or licence to undertake investigation work for them. Therefore, there is no evidence that RS was working in contravention of the Act or has committed an offence under the Act.

[7] I decline leave for the complaint to proceed and NB's complaint is dismissed.

**DATED** at Wellington this 19<sup>th</sup> day of April 2021



P A McConnell

**Private Security Personnel Licensing Authority**