

**IN THE MATTER OF**

A complaint made under ss & 73 & 74  
of the Private Security Personnel and  
Private Investigators Act 2010

**AGAINST**

**TT & SECURITY CO LIMITED**

**HEARD** by telephone on 2 September 2021

**DECISION**

[1] AB has filed a complaint against TT and Security Co Ltd in relation to TT's response to a shop lifting incident at the South Mall shopping centre on 25 July 2021. At the time TT was working as a security guard at a supermarket and AB says he breached the Act by not wearing a uniform or displaying his formal ID.

[2] AB also alleges that the way TT responded to the incident amounts to misconduct or unsatisfactory conduct as it escalated the situation, increased the risk of harm and endangered the safety of others. TT is employed by Security Co Limited.

[3] It is a little unclear from the complaint filed why Security Co has been included as a party to the complaint as the only allegation made against it is that they did not send TT home after the incident as recommended by the Police. CD is the director of Security Co Limited and DD is Security Co's HR and Office Manager.

[4] AB has provided CCTV footage of parts of the incident and written details of his understanding of what happened. He did not however personally observe what took place and nor does he appear to have spoken to TT about what happened.

[5] Mr and Mrs D also did not personally observe what happened, but they have viewed the CCTV footage provided by AB as well as other CCTV footage from within the supermarket and have spoken to TT and some others involved. They do not consider that TT was the primary aggressor but at least in part was acting to defend himself and others.

[6] They accept that the situation could have been dealt with better, and that TT should not have attempted to restrain one of the shoplifters. This is primarily because he was putting himself in danger rather than putting members of the public in danger. They however do not consider the way TT dealt with the issue amounts to misconduct or unsatisfactory conduct particularly given what happened prior to the actions in the CCTV provided with the complaint.

[7] Mr D also advised that TT at the time was working as a loss prevention officer for the supermarket. Part of the contract Security Co has with the supermarket is to provide loss prevention officers who are not to wear uniforms or prominently display their security IDs so that they can blend in with other shoppers. This is why TT was not wearing a security uniform. He was however carrying his security ID and had it available to produce on request.

[8] In order to constitute misconduct TT's either needs to have breached the Act or his conduct needs to be such that a reasonable person would consider it be disgraceful, wilful or reckless. I have viewed the video coverage and considered all parties submissions on what they say occurred and do not consider that TT's conduct meets the level of disgraceful, wilful or reckless.

[9] TT's actions fell short of good practice in that he should not have pursued the shop lifter and should not have grabbed one of the shoplifters and not let go. However, more than falling short of good practice or breaching health and safety guidelines is required before conduct can be considered wilful or reckless. I accept that TT was at least in part acting to protect himself and others.

[10] In addition, I do not consider TT actions were incompetent, negligent or unacceptable to the extent that they would meet the test required to amount to unsatisfactory conduct when considered in their context.

[11] There is no evidence that TT has breached the Act. I accept Mr and Mrs D's evidence as to why TT was not wearing the usual uniform and it is not a breach of the Act to not be wearing a security uniform while working. I also accept that TT was carrying his ID at the time of the incident.

[12] I also note that the Police attended the incident, were provided with the video coverage and spoke to the key people involved at the time. They have not filed any complaint against TT or provided him with a warning which they would most likely have done if they had serious concerns about the way he acted or if they considered he had breached the Act or that his actions amounted to misconduct.

[13] The complaint against TT has therefore not been established and is dismissed. As the complaint against TT has been dismissed the complaint against Security Co must also be dismissed. Even if I had concluded that TT was guilty of misconduct or unsatisfactory conduct, that would not be enough for a complaint to proceed against his employer.

[14] The only information AB has provided in relation to Security Co is that they did not send TT home after the incident as recommended by the Police. This falls far short of establishing misconduct or unsatisfactory conduct on the part of Security Co or its directors. Mr and Mrs D advise that they understood that the Police recommended TT be sent home because he had been hit with a stick not because of his actions at the time. TT did not go home because he insisted that he was fine to continue working.

[15] Mr and Mrs D also provided information about the guidelines and training they provide to all the security guards they employ. Ongoing training is primarily provided by reviewing incidents and using them as learning opportunities. Security Co also has clear guidelines around keeping physical distance and trying to maintain a family friendly environment.

### **Summary and Conclusion**

[16] AB has failed to establish any breach of the Act by either TT, RDC Security or its director. In addition, I am not satisfied that either TT or Security Co is guilty of misconduct or unsatisfactory conduct. The complaint is accordingly dismissed.

**DATED** at Wellington this 24<sup>th</sup> day of September 2021

  
P A McConnell  
  
**Private Security Personnel Licensing Authority**