

IN THE MATTER OF The Private Security Personnel and
Private Investigators Act 2010

AND

IN THE MATTER OF Complaint against **RTC SECURITY**
LIMITED and **IOSEFO PAUGA APE**
made under ss 73 & 74 of the Act

DECISION

- [1] Ms K has made a complaint against RTC Security Limited and their casual employee Iosefo Pauga Ape in relation to Mr Ape's conduct at Pak n Save in [redacted] on 15 and 17 November and 13 December 2022. Mr Ape has a COA in the classes of crowd controller, personal guard and property guard that is valid until 12 August 2027. RTC have a company license in the classes of crowd controller, personal guard, security consultant and property guard that is valid until 5 May 2026.

The evidence

- [2] Ms K makes the following complaints regarding Mr Ape:
- [a] That he targeted her by pulling her aside to ostensibly check her bag every time she attended the shop over an approximate three-month period.
 - [b] That he used his physical aspect to obstruct her path.
 - [c] That he got aggressive with her on one attendance stopping her before she had entered the shop and yelling at her that she had to leave her bag at the bag check.
 - [d] That he got aggressive with the manager she called to intervene.
 - [e] That he followed her out of the shop on one occasion and told her he now knew which was her car.
 - [f] That he threatened to trespass her if she did not comply with his directions.
 - [g] That he twice refused to show her his COA upon request.
- [3] These incidents have resulted in her feeling unsafe she says and unsettled in her own community. She did not sleep well after he told her he was aware which was her car and felt so unsafe she considered selling her car. She has changed her shopping habits in an effort to avoid him but feels targeted and distressed by the situation.
- [4] Ms K makes the following complaints regarding RTC:
- [a] That their phone number and email address advertised on their website do not work therefore they are not contactable by the public.
 - [b] That they did not take her complaint seriously.
 - [c] That they are not providing competent security workers.
- [5] Mr Ape does recall checking Ms K's bag once but does not recall any other interactions with her. He specifically denies threatening to trespass her, yelling at her or following her to her car. He says his COA badge is always displayed on his vest and RTC have provided video footage of one of his interactions with Ms K

which shows this. He says he was not targeting her and was just doing his job which was to conduct random bag checks.

- [6] RTC agree that it has now been brought to their attention that the phone number on their website is inaccurate and they will fix that. They confirm the email address does work. They agree they do not have a specific ability for the public to make direct complaints to them as they work primarily for one company and they rely on complaints coming to them directly from the stores they contract to. They will consider going forward whether they establish a separate complaints process that is directly accessible by the public.
- [7] They say that Mr Ape has worked with them for a few months, and they have no concerns with his abilities however agree they will monitor him, and his work going forward and ensure he has sufficient abilities to deal with presenting situations. They have attempted to give him work at other localities to minimise the impact of his presence on Ms K and only send him to Pak n Save when they are short staffed.
- [8] In response to the complaint, they say they went through the video footage they could access from the site. They spoke with Mr Ape and they approached the checkout managers at Pak n Save. None of the managers were aware of any complaints or any issues. They are clear that they take this kind of event seriously and had they received a complaint from Pak n Save would have thoroughly investigated it at the time. As they are now aware that there might be an issue at this particular Pak n Save with respect to how they deal with, and pass on, complaints. They will therefore contact Pak n Save and ensure agreement on the procedures in such a situation. They are clear they want to learn from this situation and help Mr Ape to do the same. RTC have unilaterally apologised to Ms K for the events as she has perceived them.
- [9] Ms K is concerned that Mr Ape does not remember the numerous interactions they had and says he did not appear to know what he was doing. She does not want to feel targeted in her community.

Discussion and findings

- [10] Section 66 of the Act states that a COA holder must produce their COA to any person with whom the certificate holder is dealing in the course of performing his duties as a responsible employee. Having considered the evidence I am satisfied that Mr Ape was displaying his COA whilst working on the occasions identified. It may well have been a miscommunication between him and Ms K when she asked to see his badge. Accordingly, I do not find it proven that Mr Ape breached s66 of the Act.
- [11] Pursuant to Section 74 of the Act, on the basis of the evidence I have been provided, I must decide whether Mr Ape has been guilty of unsatisfactory conduct or misconduct or gross negligence in his dealings with Ms K. The relevant standard of proof is the balance of probabilities, which in other words is what was more likely than not.
- [12] As Ms K is more likely to remember the interactions than Mr Ape given his numerous interactions with the public on a daily basis, I do accept that Ms K felt

targeted by Mr Ape in the conduction of his searches. I do not find that Mr Ape was intentionally trying to target or harass her but certainly he has stopped her on a number of occasions. This has been very distressing for her and her son. I also consider it more likely than not that there have been misunderstandings between Ms K and Mr Ape which have resulted in the interactions escalating, perhaps unnecessarily. English is Mr Ape's second language and Ms K has a previous trauma relating to a security guard which may have fed her understandings of Mr Ape's behaviour here. Mr Ape is also relatively new to the industry and has had limited training.

[13] I do not consider Mr Ape's actions were incompetent, negligent or unacceptable to the extent that they would meet the relatively high test required to amount to unsatisfactory conduct when considered in their context. His actions certainly did not reach the even higher threshold required for misconduct. Accordingly, the complaint against Mr Ape is dismissed.

[14] I consider that RTC have investigated the situation to an extent, and I accept their submissions that they wish to learn from these events to improve their service. I would expect to see their phone number on their website corrected in order that the public can contact them should they have concerns about their staff. I also accept their submissions that they will work closely with Mr Ape going forward to ensure he has sufficient support around him to produce the expected service. I also accept that they will contact the shops they support and confirm the adequacy of the complaints procedures each shop has.

[15] I am satisfied that RTC have acted diligently in the situation and will learn from it. Accordingly, I do not find it established that they have breached s73(4) of the Act and the complaint against them is dismissed.

[16] Whilst I have not found that RTC nor Mr Ape have breached the Act, I am relying on RTC to ensure their complaints process is strengthened and that they will be mentoring Mr Ape going forward. On the basis of RTC's undertakings I consider no other action necessary.

[17] A copy of the decision is to be sent to both parties and published on the Licensing Authority's website with the complainant's details redacted.

DATED at Wellington this 23rd day of February 2023



K A Lash
Deputy Private Security Personnel Licensing Authority

