

**BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL**

[2023] NZREADT 21

Reference No: READT 008/2023

**IN THE MATTER OF**

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

**BETWEEN**

**DONGSHENG WANG**  
Applicant

**AND**

**THE REGISTRAR OF THE REAL  
ESTATE AGENTS AUTHORITY**  
Respondent

Hearing on the papers

Tribunal:

D J Plunkett (Chair)  
G J Denley (Member)  
P N O'Connor (Member)

Representation:

The applicant:  
Counsel for the respondent:

Self-represented  
G Maslin

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**DECISION**  
**Dated 16 August 2023**

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## INTRODUCTION

[1] Dongsheng Wang (the applicant) has filed an application under s 112 of the Real Estate Agents Act 2008 (the Act) for review of the determination of the Registrar of the Real Estate Agents Authority (the Registrar) on 1 May 2023 to cancel his licence. It was cancelled under s 54(h) on the ground he had not paid a prescribed fee.

## BACKGROUND

[2] Mr Wang held a salesperson's licence under the Act.

[3] The Real Estate Agents Authority (the Authority) sent an email to the applicant on 13 April 2022 confirming the voluntary suspension of his licence for the period from 13 April 2022 until 13 April 2025. He was informed that if his licence was suspended for longer than one year, he was required to pay annually a fee to keep the licence suspended. It was payable on or before the anniversary date of the suspension.

[4] On 2 March 2023, the Authority sent an email to the applicant informing him that if he wished to keep his licence suspended, he was required to pay the annual suspension fee by 13 April 2023. If not, the Registrar would have to cancel his licence under s 54(h) of the Act. He would then be prohibited from being relicensed for five years.

[5] An email was sent by the Authority to the applicant on 30 March 2023 repeating the information in the email of 2 March.

[6] The applicant was sent a text message by the Authority on 31 March 2023 reminding him to pay the annual suspension fee by 13 April 2023.

[7] The Registrar wrote to the applicant on 14 April 2023 stating that his licence had been suspended since 13 April 2022 and he was due to pay the annual suspension fee on 13 April 2023 (letter sent by post and email). Section 54(h) provided that the Registrar had to cancel for failure to pay a prescribed fee. The Registrar was intending to cancel his licence and he had 10 days to say why the licence should not be cancelled.

[8] There was no response from the applicant to any of these communications.

[9] On 1 May 2023, the Registrar wrote to the applicant advising that his licence would be cancelled on 2 May 2023 under s 54(h) of the Act. He had not paid the annual suspension fee due 13 April 2023.

## REVIEW APPLICATION

[10] On about 12 May 2023, Mr Wang sought review by the Tribunal of the Registrar's decision of 1 May 2023 to cancel his licence.

[11] In his application for review, the applicant said he went back to China to look after his sick father-in-law who was hospitalised. Because Gmail is banned there, he did not receive the reminder email. As he moved house and forgot to update the address with the Authority, he did not receive the notice by post. It was a genuine mistake. He wished to continue with suspension of his licence.

[12] The applicant advised in his application that he did not wish to be heard by the Tribunal.

[13] A Minute was issued by the Tribunal on 19 June 2023 setting out a timetable for evidence and submissions.

[14] The Tribunal received no submissions from the applicant. A memorandum (24 July 2023), together with a bundle of documents, was received from Ms Maslin, counsel for the Registrar.

## JURISDICTION AND PRINCIPLES

[15] Section 54 of the Act stipulates the Registrar's power to cancel a licence in certain circumstances, including the failure to pay a prescribed fee:

### **54 Cancellation of licence**

The Registrar must cancel a person's licence and remove that person's name from the register,—

...

- (h) if the person has failed to pay any prescribed fees or levies, or payment of the fee or levy has subsequently been dishonoured.

[16] The Registrar must follow the process specified in s 55.

[17] The Tribunal has found that s 54 is written in the imperative and the Registrar "must" cancel a person's licence if one of the subss (a) to (h) applies.<sup>1</sup>

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<sup>1</sup> *Troughton v Registrar of the Real Estate Agents Authority* [2019] NZREADT 43 at [23]; *Callaghan v Registrar of the Real Estate Agents Authority* [2019] NZREADT 47 at [17]; and *Chen v Registrar of the Real Estate Agents Authority* [2020] NZREADT 53 at [8]–[9].

[18] A licensee whose licence is cancelled has the right to seek review of the Registrar's determination under s 112 of the Act:

**112 Application to Tribunal to review determination by Registrar**

- (1) An applicant may apply to the Tribunal against a determination of the Registrar that adversely affects the applicant within 20 working days after the date the applicant is notified of the determination.

...

- (4) After conducting the review, the Tribunal may confirm, reverse, or modify the decision of the Registrar.
- (5) If the Tribunal reverses or modifies a determination of the Registrar, it may exercise any of the powers that the Registrar could have exercised.

[19] Such an application must be conducted on the papers, unless the applicant requests otherwise.<sup>2</sup>

[20] The Tribunal's powers on review are no wider than those given to the Registrar. If one of the circumstances listed in s 54 is found to exist and the Registrar has followed the correct procedure, the Tribunal cannot interfere with the Registrar's decision.<sup>3</sup>

## **DISCUSSION**

[21] It is not disputed by Mr Wang that he was correctly required to pay a suspension fee by a certain date, that the required communications were sent and hence the statutory process followed, and that he did not make the payment by the deadline. He has not identified any error of fact or law by the Registrar. That being the case, the Registrar "must" cancel his licence, as s 54(h) stipulates.

[22] It is unfortunate that the applicant did not receive the statutory communications, but it is his responsibility to update the Authority with text, email and postal addresses so that communications reach him.

### *Conclusion*

[23] There was no error by the Registrar who was compelled by statute to cancel Mr Wang's licence.

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<sup>2</sup> Real Estate Agents Act 2008, s 112(3).

<sup>3</sup> *Troughton*, above n 1, at [24]; and *Callaghan*, above n 1, at [18].

## **OUTCOME**

[24] The application is dismissed and the Registrar's decision is confirmed.

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D J Plunkett  
Chair

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G J Denley  
Member

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P N O'Connor  
Member