



Decision No. 20090326

THE LAW SOCIETY OF MANITOBA

In the Matter of: **Student A, Articling Student-At-Law - Appeal to the Admissions and Education Committee of the Denial of an Application to Abridge Articles**

Hearing Date: **March 26, 2009**

Panel Members: **Paul Grower (Chair), Pamela Reilly and Grant Stefanson**

DECISION

REASONS FOR DECISION

INTRODUCTION

On, or about, January 15, 2009, Student A, an articling student-at-law, requested that his articles be abridged to allow him to be called to the Manitoba Bar on June 18, 2009, which is the 2009 date of the annual ceremony held at the Pantages Playhouse Theatre.

Student A commenced his articles on October 6, 2008. He was, therefore, requesting an abridgment of his articles to 38 weeks from the 52 weeks set by Law Society Rule 5-5(1).

Following communications with Ms. Karen Dyck, Director of Admission and Membership (the “Director”), Student A was advised, on February 12, 2009, that his reasons for seeking to abridge his articles by 14 weeks did not meet all of the criteria established for the granting of an abridgment of articles and, as a result, his request was denied.

On February 25, 2009, Student A filed a Notice of Appeal of the decision of the Director. He advised that he was not seeking an oral hearing.

On March 26, 2009, an appeal hearing took place before a panel of three members of the Admissions and Education Committee, pursuant to Law Society Rule 5-28.

FACTS

Student A graduated from the University of Guelph in 1981 with an Honours Bachelor of Science Degree in Agricultural Economics.

For 15 years, Student A was employed as a resource economist with the Government of Canada, where he conducted research, took part in interviews, solved problems and was a party to negotiations. He also drafted policy papers and prepared Bills for first and second readings in the House of Commons.

Student A is presently articled to Member A, who certified that Student A would have substantially completed the articling experience within the requested abridged time.

Student A completed the CPLED program in April, 2008, prior to commencing his articles with Member A on October 6, 2008, as allowed by Law Society Rule 5-5(1).

SUBMISSION

Student A submitted that if he had commenced his articles during the same period when he was in the CPLED program, he would have spent 3 weeks at the Law Society attending sessions.

Student A also submitted that the Law Society's Handbook for Students and Principals (the "Handbook") recommends that students be permitted by their principals to spend at least six hours per week during office hours on CPLED activities. Over a 20 week period, this would equal 120 hours - or the equivalent of three, 40 hour work weeks. Student A did not have to spend this time away from his articles as he completed his CPLED in the prior year.

Student A further submitted that the Handbook allows for three weeks of vacation during the 52 week articling period. Student A advises that he does not intend on taking any vacation.

Student A subtracted the above amounts (3 weeks attending sessions, 3 weeks working on CPLED activities and 3 weeks vacation) from the 52 weeks set by Law Society Rule 5-5, for a result of 43 weeks.

Student A will complete 37 weeks and 3 days of articles by June 18, 2009. He, therefore, submitted that he was really seeking only a 5 week and 2 days abridgement of his articles when one took into account the nine weeks accounted for above.

The Committee also noted that Student A wished to have his family attend the ceremony at the Pantages Playhouse Theatre. Furthermore, the Committee noted that Student A was unable to complete his articles concurrently with the CPLED course, as he was needed to assist a family member, residing out of Manitoba, who was ill.

Finally, the Committee noted Student A's desire to begin practising as a lawyer along with his colleagues who would be called to the Bar on June 18, 2009.

THE TEST TO BE APPLIED

Law Society Rule 5-5(1) states:

Articling and CPLED program

5-5(1) Every articling student must successfully complete the CPLED program within 2 years from the date of commencement of either the CPLED program or the student's articles, whichever is commenced earlier, and every articling student must serve, unless abridged by the chief executive officer,

(a) at least 52 weeks of full-time articles; or

(b) part-time articles which are equivalent to 52 weeks of full-time articles, as approved by the chief executive officer.

Abridgments of more than four weeks may only be granted in exceptional circumstances.

As Student A is seeking an abridgment of 14 weeks, he must meet the "exceptional circumstances" test.

APPLICATION OF THE TEST

The Committee, while recognizing Student A's able arguments noted above, is not convinced that he has demonstrated that he meets the "exceptional circumstances" test set out in Law Society Rule 5-5(1).

The Committee further notes that the test, in itself, creates a significant burden on any student seeking any abridgment greater than 4 weeks, let alone 14.

While the Committee also recognizes Student A's arguments on a compassionate basis, its (and the Law Society of Manitoba's) principal focus must be the protection of the public. In allowing an individual to be called to the Bar, the Law Society is representing to the public that the individual is competent to carry on the practice of law.

The Law Society Rules themselves recognize that in order to ensure that a proper and complete period of articles occur, a 52 week period is normally required. This length of

time is required to ensure that competency can be achieved and demonstrated by the student and to allow for an adequate period of time for same to be assessed by the principal.

Furthermore, the Committee notes that the only other exception provided for in the law Society Rules, is Rule 5-5(2) which allows a credit for time served by a student, in either an articling or clerking program, in another province – but only to a maximum of 6 months. While the Committee notes Student A’s previous experience in his employment with the Government of Canada – that experience did not constitute articles or a clerkship as provided for by the Rules.

In conclusion, the Committee is concerned that the proposed abridgment of 14 weeks, which ultimately is what Student A is seeking, does not ensure that a proper and complete articles will occur. While Student A has ably argued a method to recalculate the time period for his articles, the Committee does not agree that a proper and complete articles can be compressed in such a fashion.

DECISION

Therefore, it is the unanimous decision of the Committee that Student A’s appeal be dismissed.

Paul Grower
Chair of the Admissions and Education Appeal Panel

Date: May 5, 2009