



DISCIPLINE CASE *DIGEST*

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Case 94-14

GERALD ERNEST DOAK
Winnipeg, Manitoba

Called to the Bar
June 30, 1988

Particulars of Charges
Professional Misconduct (4 counts)

- failure to respond to a fourteen-day letter (2 counts)
- failure to serve clients
- misleading clients

Date of Hearing
May 12, 1994

Panel
Laurie Allen (Chairperson)
Alexandra Morton, Q.C.
Arthur Rich, Q.C.

Disposition

- \$1,000.00 fine
- \$500.00 costs

Counsel
Daniel Dutchin for the Law Society
Fred Bortoluzzi for the member

Failure to Respond to the Law Society

Facts

Mr. Doak, who was called to the Bar on June 30, 1988, appeared before the Discipline Committee on May 12, 1994.

Mr. Doak failed to respond to a letter from the Law Society within fourteen days as required by the Rules.

On a second matter, Mr. Doak again failed to respond to a letter from the Law Society within fourteen days. In this particular instance, Mr. Doak acknowledged receipt of a letter from the Law Society and requested an extension of the time within which to respond. After being granted an extension of time, he then failed to respond to the letter within that time period. He finally responded to the letter when he was notified that he was being charged with professional misconduct for failing to respond.

Also, while acting for a client with regard to the enforcement of marital property settlement, he failed to proceed with the enforcement after being retained by the client. He also misled his client by advising her that he was proceeding with the matter when he was not.

Comments of the Discipline Committee

Mr. Doak pled guilty to all four counts. The Committee considered the representations made to them. It was their view that Mr. Doak's behavior in failing to respond to the fourteen-day letters fell short of the standards expected of each and every lawyer in the province. The Committee also noted that, with respect to the second failure to respond to a fourteen-day letter, Mr. Doak had requested an extension of time and then failed to comply with the extended time to answer.

The Committee was most concerned about the issues of delay and being candid with the client. They expressed concern that the client's trust in Mr. Doak had been misplaced, but also noted Mr. Doak's admission and candour with respect to his inactions and the inappropriateness of them.

Findings and Penalties

With respect to the first charge of failing to respond to a fourteen-day letter, the Committee imposed a reprimand. With respect to the second count of failing to respond to a fourteen-day letter, the Committee imposed a fine of \$250.00. With respect to the two counts of failing to serve the client and misleading the client, a total fine of \$750.00 was imposed.

The Committee noted Mr. Doak's cooperation with respect to these proceedings and his early indication that he would be pleading guilty. As a result, costs were assessed in the amount of \$500.00.

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