



DISCIPLINE CASE *DIGEST*

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Case 95-05

GERALD ERNEST DOAK
Winnipeg, Manitoba

Called to the Bar
June 30, 1988

Particulars of Charges
Professional Misconduct (1 count)

- failed to charge agreed upon fee

Date of Hearing
March 21, 1995

Panel
David Frayer, Q.C. (Chairperson)
Barbara Hamilton, Q.C.
Heather Leonoff, Q.C.

Disposition

- reprimand
- costs of \$500.00

Counsel
Daniel Dutchin for the Law Society
F. Bortoluzzi for the Member

Improper Fees

Facts

Mr. Doak, who was called to the Bar on June 30, 1988, appeared before the Discipline Committee on March 21, 1995.

Mr. Doak was retained by a client on a wrongful dismissal action. During the course of the proceedings, Mr. Doak agreed with the client to reduce his fees as the client was being required to repay unemployment insurance benefits. Subsequent to that agreement however, Mr. Doak determined that a lesser payment to unemployment insurance was required and unilaterally decided to take the fee originally arranged with the client. The client did not consent to this arrangement and complained to the Law Society.

Mr. Doak then refunded the excess amount of the fees to the client, so that the client was only charged the agreed upon reduced fee.

Comments of the Discipline Committee

Mr. Doak admitted that he had failed to charge the agreed upon fee which had been set out in an authorization from his client. The Committee noted that it was to the credit of Mr. Doak that he had reimbursed his client the difference in the fees.

The Committee stated that it was necessary to relay a message to the members of the profession that lawyers not alter fee arrangements without the clear and unequivocal authorization of their clients.

Findings and Penalties

The Committee imposed a reprimand and costs of \$500.00.

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