



DISCIPLINE CASE *DIGEST*

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Case 95-11

EVA DRAGUN
Winnipeg, Manitoba

Called to the Bar
June 20, 1991

Particulars of Charges
Professional Misconduct (3 counts)

- failure to obtain mandate from client
- improper contingency fee
- unfair and unreasonable fees

Date of Hearing
May 17, 1995

Panel
Robert Dewar, Q.C. (Chairperson)
Alan Sweatman, Q.C.
Ronald Toews

Disposition

- reprimand
- costs of \$235.00

Counsel
Daniel Dutchin for the Law Society
Eleanor Dawson, Q.C. for the Member

Failure to Serve Client

Facts

Ms. Dragun, who was called to the Bar on June 20, 1991, appeared before the Discipline Committee on May 17, 1995.

Ms. Dragun was retained to act for a client on a domestic matter. When Ms. Dragun attended court on behalf of her client, she secured an adjournment of the court proceedings by consenting to blood tests being conducted at her client's expense. Her client did not have knowledge of this fact nor did he consent to it.

Ms. Dragun was also retained to act for clients on a personal injury action. A contingency agreement was executed between the clients and Ms. Dragun which purported to take as a fee, 30% of the M.P.I.C Part II benefits already being paid to the clients. The clients had been receiving the Part II benefits when they retained Ms. Dragun, who had no involvement in securing the payments for her clients.

When the clients discharged Ms. Dragun, she sent a statement of account to them claiming a percentage of the Part II benefits and also charged for her actual time spent on the file. After a court assessment with respect to the fees charged by Ms. Dragun, a Master reduced the fees as they did not reflect the time and effort spent on the file, the difficulty of the matter and results obtained. A refund of some of the monies was ordered.

Comments of the Discipline Committee

Ms. Dragun admitted the three charges of professional misconduct. The Committee noted that these incidents had occurred shortly after Ms. Dragun had begun practising and she was relatively inexperienced. The Discipline Committee noted that a Practice Direction had been published by the Law Society subsequent to this incident indicating that it was improper to include Part II benefits in a contingency agreement unless the lawyer had to perform substantial work in order to secure those benefits.

Findings and Penalties

The Committee reprimanded Ms. Dragun with respect to all three counts and also ordered that costs be paid in the amount of \$235.00.

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