

IN THE MATTER OF: Law Enforcement Review Act Complaint
#2006/06

AND IN THE MATTER OF: An Application pursuant to s. 13 of The Law
Enforcement Review Act R.S.M. 1987, C. L75

BETWEEN:

T [REDACTED] L.,) **T [REDACTED] L., self-represented**
Complainant)

- and -)

Cst. J. T.) **Mr. Josh Weinstein**
Cst. K. M.) **For the Respondents**
Cst. M. G.)
Cst. B.G.)
Respondents)

) **Mr. Sean Boyd**
) **For the Commissioner**
)

NOTE: These reasons are subject)
to a ban on publication of the) **Written reasons:**
respondents' names pursuant to) **December 14, 2009**
s. 13(4.1).)

SANDHU, P.J.

[1] Pursuant to the provisions of section 13(2) of the *Law Enforcement Review Act* (LERA), the complainant T [REDACTED] L. applies to have this court review the decision of the LERA Commissioner in which he declined to take further action on his complaint because he found the evidence supporting the complaint to be insufficient to justify taking the matter to a public hearing, pursuant to s. 13(1)(c). The lawyer for the Commissioner was granted standing to participate in the December 1st hearing of the review solely on the issue of the interpretation and application of the act. The pertinent paragraph from the decision letter of the Commissioner, dated September 28, 2006, at page 5, states:

NOTE: For the purposes of distribution, personal information has been removed by the Commissioner.

On a previous complaint that proceeded to a hearing before a provincial judge, the judge stated, 'The evidence must be clear, it must be free from confusion and it must also be convincing, which when combined with the word clear, in my view, means that it must be compelling. While I cannot say what did or did not happen in this case, it is my view the evidence supporting your complaint is insufficient to justify taking this matter to a public hearing. Therefore, pursuant to Section 13(1)(c) of the Law Enforcement Review Act, I must decline from taking any further action on this matter'.


[2] Section 13(1) of the LERA is the section of the legislation that authorizes the Commissioner to decline to take further action on a complaint on one of three grounds:

- (a) that the subject matter of the complaint is frivolous or vexatious or does not fall within the scope of section 29 (the section defining disciplinary defaults);
- (b) that a complaint has been abandoned; or
- (c) that there is insufficient evidence supporting the complaint to justify a public hearing.

[3] The review section (13)(3) states:

On receiving an application under subsection (2), the Commissioner shall refer the complaint to a provincial judge who, after hearing any submissions from the parties in support of or in opposition to the application, and if satisfied that the commissioner erred in declining to take further action on the complaint, shall order the Commissioner (a) to refer the complaint for a hearing; or (b) to take such other action under this Act respecting the complaint as the provincial judge directs.

[4] Having reviewed the full LERA file, the complaint and the letter of the Commissioner, and having heard submissions from the Complainant/Applicant, I have declined the application as I find that the Commissioner did not err in declining to take further action.



P.J.