

**IN THE INDEPENDENT
LEGAL SERVICES COMMISSION**

NO. 003 OF 2012
NO. 004 OF 2012

BETWEEN : **CHIEF REGISTRAR** Applicant
AND : **LUSEYANE LIGABALAVU** Respondent
Applicant : Ms. L. Vateitei and Mr. A. Chand
Respondent : In Person
Dates of Hearing : 31st August 2012
Date of Judgment : 21st September 2012

JUDGMENT

1. In these two separate proceedings, the Respondent faces three counts of professional misconduct, all three relating to failure to follow directions of the Chief Registrar.

APPLICATION NO 003 OF 2012

2. The Respondent is charged as follows:

"PROFESSIONAL MISCONDUCT: *Contrary to Section 83(1)(g) of the Legal Practitioners Decree 2009*

Particulars

Luseyane Ligabalavu a legal practitioner, between the 15th of December 2011 to the 23rd of January 2012, failed to respond to a complaint lodged by one Maina Wati within the time stipulated in the notice issued by the Chief Registrar pursuant to Section 105 of the Legal Practitioners Decree and thereafter failed to respond to a subsequent reminder notice issued by the Chief Registrar pursuant to Section 108(1) of the Legal Practitioners Decree which conduct was a contravention of Section 108(2) of the Legal Practitioners Decree 2009 and was an act of professional misconduct."

3. The Respondent advised the Commission at hearing that she is contesting this charge and in agreeing the evidence relied upon by the Applicant filed submissions to counter the allegation.
4. The brief facts relating to this complaint were that a Ms Wati had contracted the Respondent to act for her in regard to an estate matter and for the Respondent to file documents to obtain probate in the probate registry. The client had paid fees and was unhappy with the work done (or not done) and complained to the Chief Registrar. Pursuant to the complaint the Chief Registrar wrote to the Respondent asking for a response to the complaint - the letter dated 13th of December 2011 and hand delivered on 15th December 2011. There being no reply the Registrar wrote a final demand for explanation on 10th January 2012, the letter being hand delivered on the same day. Again there was no reply by the Respondent.
5. In her written submissions the Respondent claims that on the same day of the first letter written by the Chief Registrar (13.12.11) she had in fact written to the Probate Registry withdrawing as solicitor for the complainant. She submits that as that Registry is a division of the High Court Registry, the Chief Registrar is the head and therefore her letter of the 13th December did in fact form a response to the Chief Registrar's letter. The Respondent also covered in her written submissions a lot of peripheral issues such as the theft of a bag, dispute with the client over money paid etc. None of these issues were relevant to the failure charged.
6. The Respondents excuse is misconceived for two principal reasons. A letter written on the 13th December and delivered (with receipt) on the 15th December cannot be responded to by a letter written on the 13th December. Even if the reply was timely, a letter to the Probate Registry withdrawing as solicitor on record is not written in response to the Chief Registrar's for a response on the compliance original complaint.
7. To completely ignore the Chief Registrar's correspondence shows disdain and disregard for the authority to the head of the profession and there has been no reasonable excuse furnished to this Commission.
8. The allegation made in this count against the Respondent is **established**.

APPLICATION NO 4 OF 2012

The Respondent is charged with two counts. They read:

Count 1

PROFESSIONAL MISCONDUCT: *Contrary to Section 83(1)(g) of the Legal Practitioners Decree 2009*

Particulars

Luseyane Ligabalavu a legal practitioner, from the 9th of December 2011 till date, failed to comply with the orders given by the Chief Registrar on the 6th of December 2011 following a mediation conducted in the complaint lodged by one Joeli Tudrau against the said Luseyane Ligabalavu which conduct was a contravention of Section 108(2) of the Legal Practitioners Decree, 2009 and was an act of professional misconduct.

Count 2

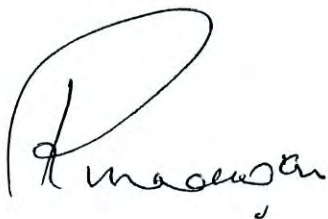
PROFESSIONAL MISCONDUCT: *Contrary to Section 83(1)(g) of the Legal Practitioners Decree 2009*

Particulars

Luseyane Ligabalavu a legal practitioner, after being instructed on behalf of the Chief Registrar to appear before the Chief Registrar on the 16th of April 2012 in relation to the non-compliance of the orders issued against her during mediation of a complaint by one Joeli Tudrau, disobeyed the said instructions by failing to appear before the Chief Registrar on the said day which conduct was a contravention of Section 108(2) of the Legal Practitioners Decree, 2009 and was an act of professional misconduct.

9. Again the Respondent agreed the Applicant's evidence at the hearing, but contests the charge and relies on written submissions she has filed with the Commission.
10. The facts relating to this allegation are that a Mr Tudrau claimed to have paid fees to the Respondent to file and handle a judicial review matter. Mr Tudrau alleges that no such application was filed and that his fees should be repaid. The Chief Registrar in assessing the complaint was properly of the view that it should be dealt with by mediation. A mediation conference was held on the 6th December 2011 when all interested parties, including the Respondent, attended. A directive of the Chief Registrar emanating from the conference was that the Respondent should pay \$400 to the complainant in settlement of the issue.
11. On the 16th December 2011, the Respondent paid \$200 of this sum to the complainant with a promise to pay the balance "the following week". The balance still being outstanding on the 13th April 2012, an email was sent to the Respondent requiring her to appear before the Chief Registrar on the 16th April 2012 to explain her non-compliance with the mediation orders. Apart from the email, her office staff were notified of the meeting and a letter was hand delivered to her firm.
12. On the 16th April the Respondent neither appeared before the Applicant nor provided an excuse or apology. The balance of \$200 is still not paid.

13. In her written submissions the Respondent again dwells on irrelevant issues such as the role of the solicitor previously acting for the client and appears to dispute the result of the mediation by claiming that she should pay the \$200 balance for court fees and not to the client. She offers as an excuse for not attending the meeting with the Chief Registrar, the fact that her staff did not inform her and she did not access her email before the scheduled meeting.
14. As counsel for the Applicant properly submits, even if she had accessed her emails at a later time, then it would be a normal courtesy to apologize and ask for another date. This Commission does not accept her rather feeble excuses and finds that there is no reasonable excuse for the practitioner not to have completed compliance with the mediation orders nor to have missed the meeting scheduled with the Chief Registrar.
15. In the circumstances, the Commission finds that both allegations in the two charges are **established**.



JUSTICE PAUL MADIGAN
COMMISSIONER



21 SEPTEMBER 2012