

In The Matter Of: An application pursuant to Section 13(2) of The Law Enforcement Review Act, R.S.M. 1987, c. L75.
(L.E.R.A. Complaint No. 5881)

And In the Matter Of: An application pursuant to Section 13 of The Law Enforcement Review Act, R.S.M. 1987, c. L75.

B E T W E E N:

Mr. W.)	Mr. W.in
)	Person and unrepresented by
)	counsel
- and -)	
)	
Constable W. Respondent)	Mr. Paul R. McKenna
)	Counsel for the Respondent
)	
)	Mr. Denis Guénette
)	Counsel for L.E.R.A.
)	
<i>NOTE: These reasons are subject to a ban on publication of the respondent's name pursuant to s. 13(4.1) (b)</i>)	Judgment Delivered: April 16, 2003
)	

DECISION ON REVIEW

I. FACTUAL BACKGROUND

[1] On December 28, 2001, Mr. W. contacted the Winnipeg Police Services to make a complaint. During the making of this complaint words were exchanged which resulted in the officer hanging up the telephone. Mr. W. subsequently complained to the L.E.R.A. Commissioner concerning this exchange.

[2] In a letter dated May 7, 2002, the Commissioner informed Mr. W. on the results of the Commissioner's investigation of his complaint. This reporting letter sets out the details of the incident. It is attached to this decision as Appendix A.

[3] I have reviewed the Commissioner's file and conclude that his reporting letter of May 7, 2002, fairly sets the essence and results of his investigation.

II. STANDARD OF REVIEW

[4] At the time of the hearing of this case, a brief was filed by Mr. McKenna, the counsel representing the respondent and Mr. Guénette filed a brief on behalf of the L.E.R.A. Commissioner. The purpose of these briefs was to urge a particular standard of review to be used in such cases.

[5] Judge Swail, who was also conducting such a review, was also presented with the same material. On February 19, 2003, Judge Swail issued his decision on review in the matter of *Mr. G. (complainant) and Constable B. and Constable S. (respondents)*. In that decision, Judge Swail undertook an extensive review of the material provided by the respective counsel. I have had an opportunity to review that decision and adopt his conclusion with respect to the Standard of Review under L.E.R.A. which had previously been set out L.E.R.A. decisions which he cites. In my view, nothing can be usefully gained by my writing further on the issue.

III. DECISION ON THIS REVIEW

[6] The Commissioner's decision in this instance was to decline to take further action on the complaint.

[7] The complainant contacted the Winnipeg Police Service on December 28, 2001 at approximately 2:25 p.m. to make a complaint about concerns he had about his mail being delivered to 912 William Avenue. Apparently arrangements were made with Canada Post to have a lock placed on the mailbox because of previous thefts. Further arrangements had been made with the Public Trustee to have the mail picked up and the complainant was concerned with the action of his brother with interference of his mail.

[8] The complainant attempted to file a complaint with the Winnipeg Police Service concerning the matter but then proceeded to raise issues of illegal arrest and eviction, continued harassment by police and a 1983 hit and run accident.

[9] The officer attempted to provide assistance and advise to the complainant concerning the problem with mail but was met with belligerence and verbal abuse to the extent that the officer hung up on the complainant.

[10] At the hearing of this review the complainant raised issues of conflict of interest, secret proceedings, police misconduct in 1983, lack of police protection and very little concerning the subject matter of this complaint.

[11] It was entirely appropriate for the Commissioner to conclude that the complaint was unwarranted and was entitled to decline to take further action pursuant to Section 13(1)(a) of the *Law Enforcement Review Act*.

[12] I am therefore satisfied the Commissioner did not err in declining to take further action on this complaint.

[13] Pursuant to Section 13(4.1)(b) of the Act, I order a ban on the publication of the respondent's name.

Dated at Winnipeg, Manitoba, this 16 day of April, 2003.

GUY, P.J.