

**ROYAL INSTITUTION OF CHARTERED SURVEYORS
APPEAL PANEL HEARING**

Case of:

Ms Guniz Celen

On

Thursday 11 April 2019

At

RICS, 55 Colmore Row, Birmingham, B3 2AS

Panel Members

Sir Michael Burton (Lay Chairman)

Mr Adrian Davey (Surveyor Member)

Ms Ruth Brutnall (Lay Member)

Legal Assessor

Ms Margaret Obi

RICS Representative

Mr James Lynch

Hearing Officer

Miss Maria Choudhury

Background

1. On 12 September 2018, the RICS Disciplinary Panel found the following charge proved against Ms Celen:

“Between 1 January 2016 and 1 February 2017, you have failed to comply with RICS’ requirements in respect of Continuing Professional Development (CPD) in that you have not completed and recorded, or caused to be recorded, at least 20 hours of CPD on the RICS CPD portal.”

2. Having found the facts of the charge proved, the Disciplinary Panel determined that Ms Celen was liable to disciplinary action. The sanction imposed was as follows:

- a. *Reprimand.*

- b. *As condition of your continuing membership, you are directed to comply with the CPD requirements for 2018 by completing your CPD hours for the year 2018 by 31 December 2018 and recording your CPD hours online by 31 January 2019.*

3. The Disciplinary Panel stated that *‘failure to comply with this condition will result in automatic expulsion from membership, without further reference to a Disciplinary Panel.’*
4. Ms Celen did not record her CPD online by 31 January 2019. On 12 March 2019, RICS notified Ms Celen that she had been removed from membership of RICS in line with that condition. Ms Celen replied the same day expressing regret and offering to rectify the situation promptly.
5. Ms Celen subsequently appealed against the original decision of the Disciplinary Panel. Permission to appeal the decision out of time was granted on 5 April 2019.

Grounds of Appeal

6. Ms Celen sent emails to RICS on 13 March 2019, 18 March 2019, 1 April 2019, 3 April 2019 and 4 April 2019. RICS accepted that collectively the content of these emails, constituted an application to appeal against the original decision of the Disciplinary Committee.
7. Ms Celen's grounds of appeal, as summarised by RICS in the Case Summary, are as follows:
 - a) There is new information available that, had it been known to the Disciplinary Panel, may have resulted in a different outcome. The new information is:
 - (i) Ms Celen's lack of competence in using IT systems.
 - (ii) Confirmation that Ms Celen has completed 169 hours of CPD for 2018.
 - b) The sanction will have a disproportionate impact upon Ms Celen and as a consequence is unfair.
 - c) Ms Celen did not receive the relevant reminders in relation to her 2018 CPD.

RICS Response

8. Mr Lynch, on behalf of RICS, acknowledged that Ms Celen had completed and recorded her CPD for 2018 and 2019. RICS also acknowledged that she had demonstrated a willingness to ensure that in future she fully comply with her CPD obligations. In these circumstances, RICS did not oppose the course of action proposed by the Appeal Panel at the outset of the hearing.
9. Mr Lynch made an application for costs in the sum of £3,850.

DETERMINATION

Appeal Panel's Decision

10. The Appeal Panel determined that the appeal should be allowed.

11. As compliance with the condition imposed by the Disciplinary Panel was fully notified to Ms Celen, leading to immediate expulsion without further notice, reminders were inapt. The Appeal Panel was, however, satisfied that Ms Celen's non-compliance with the CPD requirements was based on her lack of IT skills and not on any failure to carry out her obligation to undertake CPD. The Appeal Panel concluded that it was appropriate to address the underlying reason for her failure and accordingly that Ms Celen should thus be given a final opportunity, and revoked the Disciplinary Panel's expulsion order. The Appeal Panel determined that Ms Celen's RICS membership should be restored and substituted expulsion order by the following conditions:

Conditions

- a) As a condition of continuing membership Ms Celen is directed within 3 months, (from the date of receipt of this written determination) to undertake IT training from a suitably qualified training provider.

- b) As a condition of continuing membership Ms Celen is directed within 3 months (from the date of receipt of this written determination) to provide RICS with written confirmation from the suitably qualified training provider that she has completed the IT training and that she has achieved an appropriate level of competence to enable her to record her CPD hours online for the year 2019 onwards;

- c) As a condition of continuing membership Ms Celen is directed within 3 months (from the date of receipt of this written determination) to notify RICS in writing of the name of the individual who will record her CPD hours online in the event that Ms Celen is unable to do so.

- d) As a condition of continuing membership Ms Celen is directed to pay the Disciplinary Panel costs of £400.00 (or equivalent in Euros) and the Appeal Hearing costs of £3,850 (or equivalent in Euros) within 6 weeks (from the date of receipt of this written determination).
- e) In the event that Ms Celen fails to comply with Conditions a), b), c) or d), she shall be automatically expelled from RICS membership without further reference to a Disciplinary Panel.

Publication

- 12. The Appeal Panel acknowledged that it is usual for decisions to be published and was unable to identify any reason for departing from the normal practice in this case.
- 13. The Appeal Panel ordered that this decision is published on RICS' website and in Modus.