



ROYAL INSTITUTION OF CHARTERED SURVEYORS

DISCIPLINARY PANEL HEARING

Wednesday 19 January 2011

RICS, Surveyor Court, Westwood Way, Coventry, UK

CASE OF: MR STEVEN KEAY MRICS [0078539]
SUNDERLAND, SR2

Chairman: Mary Symes
Members: Barry Picken (Lay)
Rob Swan (FRICS)

Legal Assessor: Sarah Ellson

RICS Representative(s): Vicki Buckley

CHARGES HEARD:

The formal charge is:

You have not at all times avoided any actions or situations that were inconsistent with your professional obligations in that you have failed to comply with a County Court judgment dated 08 November 2009 in favour of Mr Robin* Martin relating to professional fees **Contrary to Rule 3 of the Rules of Conduct for Members 2007**

* the charge was amended to correct a reference to Robert rather than Robin Martin.

DETERMINATION:

Proceeding in absence:

At the outset of the hearing the Panel determined to proceed in the absence of Mr Keay in accordance with Rule 30. The Panel were satisfied that the Notice of Hearing had been served in accordance with Rule 23. The Panel noted that the RICS were able to produce evidence that the

Notice had been signed for on 3 December 2010 which further satisfied it that Mr Keay is aware of today's hearing.

The Panel had no evidence as to why Mr Keay has not attended today but noted that his last correspondence with RICS was his email dated 15 April 2010, at which stage he was aware of and had responded to the RICS about the complaint by Mr Martin.

The Panel carefully considered the factors that might affect its discretion to proceed in Mr Keay's absence. On balance it concluded that there was nothing to suggest that Mr Keay wanted the matter adjourned nor that an adjournment would result in his attendance on a future date. In the interests of justice it was appropriate to proceed with the case today,

Panel's Decision:

Findings of Fact:

The Panel heard from Ms Buckley on behalf of RICS and noted the precise terms of the charge in this case. The Panel is satisfied that Mr Keay has failed to comply with a County Court judgment dated 08 November 2009 in favour of Mr Robin Martin relating to professional fees.

Mr Keay engaged Mr Martin to undertake energy assessments of a client's commercial properties in Stockton on Tees. Mr Martin undertook the work in the summer of 2009 and submitted invoices for a total of £700. There is no evidence that any payment was made by Mr Keay to Mr Martin and Mr Martin has stated to RICS that "despite promises of cheques in the post" he has not received any payment. Mr Martin issued proceedings in the County Court on 12 October 2009 and secured judgment in respect of the whole sum, the matter not having been contested. The Panel was told that the County Court judgment still remains outstanding in full.

The Panel finds the facts found proved on the balance of probability.

The RICS help sheet "Maintaining Professional and Ethical Standards" specifically states at item 10 that Members should "avoid any action, illegal or litigious that may bring the profession into disrepute". Failure to honour invoices and to allow matters to proceed to a County Court judgment, and subsequent failure to comply with that judgment, is a clear breach of Rule 3 and the standards expected of a Member of RICS. Mr Keay's conduct amounts to actions that were inconsistent with his professional obligations. The facts of this case give rise to a liability to disciplinary action.

Penalty:

The Panel considered the appropriate penalty and had regard to the RICS Sanctions Policy. The Panel determined that a sanction was necessary and that to take no action would be insufficient. The Panel also decided that a caution would not adequately reflect the gravity of this matter.

The Panel decided to impose a reprimand and conditions in this case. The Panel did consider the imposition of a fine but concluded that, of itself, it would not address the concerns raised by this case.

Therefore the Panel is imposing the following conditions:

1. That within 28 days from the date on which Mr Keay receives notification of this decision (served in accordance with Rule 38) he settles the full amount outstanding under the County Court judgment dated 8 November 2009.
2. That within 14 days of payment being made in settlement of the County Court judgment, Mr Keay submits proof of payment to RICS Regulation.

Breach of either of these conditions will lead to automatic expulsion from membership of RICS.

It is recommended that RICS specify to Mr Keay the person to whom the evidence required under condition 2 should be sent.

The Panel believes this sanction is appropriate and proportionate. Mr Keay in his email of 15 April 2010 said that he was willing to pay these amounts and it seemed appropriate to give him a final opportunity to honour his obligation. Failure to comply with any Court judgment, which is in the public domain, is a serious breach of Rule 3 and is inconsistent with the professional obligations of Members of RICS. It falls well below the standards expected by RICS of its members and it brings the profession into disrepute.

Any conditions must be specific, measurable, achievable, realistic and time specific. The conditions imposed in this case meet these requirements. A failure to comply with this final opportunity would be a very serious matter. It would demonstrate a complete lack of regard by Mr Keay of the standards required by RICS and in the Panel's view would warrant automatic expulsion.

Publication:

The Panel directs publication in accordance with Supplement 3 to the Sanctions policy. In addition the Panel requests that RICS send a copy of its decision to Mr Martin.

Costs:

The Panel orders that Mr Keay pay the costs of the RICS in this case which the Panel has recalculated as £3,251.50. The Panel has made allowance for a shorter hearing time and reduced the solicitor's costs accordingly.

Appeal Period:

Mr Keay has 28 days to appeal this decision in accordance with Rule 59 of the Disciplinary, Registration and Appeal Panel Rules.

Mr Keay failed to comply with the conditions of this panel, therefore has been expelled from the institution effective from 11 April 2011.