

2022 LSBC 39
Hearing File No.: HE20180069
Decision Issued: October 24, 2022
Citation Issued: July 19, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

SUNEIL KYLE SANGHA

RESPONDENT

**DECISION OF THE MOTIONS ADJUDICATOR
ON AN APPLICATION FOR AN EXTENSION
OF TIME TO PAY**

Written materials:	October 20, 2022
Motions Adjudicator:	Christopher McPherson, KC
Discipline Counsel:	Marsha Down
Appearing on his own behalf:	Suneil Kyle Sangha

NATURE OF THE APPLICATION

[1] This is an application by the Respondent for an extension of time to pay a fine or costs pursuant to Rule 5-12(1)(a)(i) of the Law Society Rules. The Law Society opposes the application.

- [2] As a Motions Adjudicator, I have the jurisdiction to hear this application pursuant to Rule 5-12(4) and must either dismiss the application or extend to a specified date the time for payment pursuant to Rule 5-12(5)(a) and (b).
- [3] I find that the Respondent has failed to provide an adequate evidentiary foundation in support of the application, which I accordingly dismiss.

FACTS

- [4] On January 26, 2021, a hearing panel imposed a fine of \$7,500 and ordered costs of \$3,500. The fine and costs totalling \$11,000 was to be paid by December 31, 2021.
- [5] The Respondent did not pay any portion of the fine or costs by December 31, 2021, or at any time since. He made no application for an extension of time to pay the fine or costs until he filed this application in October 2022, some ten months after he was required to pay the fine and costs, and over 20 months after the Decision on Disciplinary Action was imposed.
- [6] On January 6, 2022, the Respondent wrote to the Law Society “hoping for an extension until May of this year [2022]”. The Law Society directed him to Rule 5-12(1). On February 25, 2022, the Respondent sent correspondence to the President of the Law Society requesting an extension of time to pay the fine and costs and proposing payment of \$1,000 per month.
- [7] In response, discipline counsel for the Law Society wrote to the Respondent on March 3, 2022, enclosing a copy of Form 5 (Notice of Motion) for him to file for an extension of time to pay. He took no further steps at the time.
- [8] On September 20, 2022, the Law Society provided the Respondent with a deadline of September 29, 2022, either to file an application for extension of time to pay or to pay the amount in full. The Law Society told the Respondent that it anticipated filing a certificate for the full amount in the Supreme Court of British Columbia.
- [9] It was only after receiving this deadline, which the Respondent allowed to pass, that on October 3, 2022, the Respondent filed this Notice of Motion, together with an unsworn affidavit.
- [10] On October 19, 2022, the Respondent filed a sworn affidavit with the same information although the sworn affidavit included a redacted bank statement showing a balance of negative \$2,444.63 as of October 18, 2022. In the affidavit the Respondent deposes that he has not been gainfully employed as he awaits a hearing concerning his reinstatement application.

- [11] The bank statement does not provide any details about his withdrawals and deposits, as that information is redacted.
- [12] The affidavit reveals no information about other bank accounts, assets, income, or expenses. The affidavit does not provide any evidence about whether the Respondent is working in any capacity or has any sources of income apart from the statement that he is “not gainfully employed”.

ANALYSIS

- [13] At the Disciplinary Action stage of the hearing the panel expressly provided the opportunity for submissions concerning the time to pay the fine and costs. No submissions were provided, and the panel allowed about eleven months to pay the \$11,000.
- [14] If this was insufficient time, then the Respondent had every opportunity to make submissions, or at the very least, seek to have the time to pay extended at some point before December 31, 2021. He failed to do so.
- [15] Given my conclusions, I decline to consider whether I have jurisdiction to extend the time to pay after the deadline (here, December 31, 2021) has passed. This was not argued before me and is not necessary for me to decide.
- [16] While the Respondent took some steps early in 2022, he did not follow through with an application as required until the Law Society told him that they anticipated filing a certificate with the Supreme Court of British Columbia for the full amount.
- [17] Even when the Respondent did file his application, the evidence in support of the remedy sought falls short. There is no explanation as to why he did not file an application for close to two years after the decision. There were no payments made. There is no evidence as to why he did not make at least some attempt to pay part of the amount owing. The Respondent has not provided a statement of income, or a tax return. I am completely in the dark about his expenses, his assets, or whether he receives any income at all, and if so, from what sources.
- [18] There is nothing more than a bank statement showing a negative balance on October 18, 2022. I note that there are deposits and withdrawals on that bank statement, but there is no evidence about what they represent or their amounts.
- [19] The Respondent deposes that he is not “gainfully employed” but does not say if he is employed in any capacity, or with whom, or what his remuneration is, if any.

[20] This is the application of the Respondent. It is incumbent upon the Respondent to provide an evidentiary basis to support his application. He has not done so.

DECISION

[21] I dismiss the application by the Respondent for an extension of time to pay the fine and costs ordered by the hearing panel in the Decision on Disciplinary Action dated January 26, 2021, indexed as *Law Society of BC v. Sangha*, 2021 LSBC 03.