

IN THE MATTER OF:

The Law Enforcement Review Act
Complaint #2017/76

AND IN THE MATTER OF:

An Application pursuant to s. 13(2) of *The Law Enforcement Review Act*, C.C.S.M., c.L75.

BETWEEN:

E.P.

)

Self Represented,

)

Complainant,

)

-and -

)

)

SGT. A.W.

)

Respondent.

)

Mr. P. McKenna

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Counsel for the Respondent.

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Decision date: November 21, 2017

Restriction on Publication

This Decision is subject to a ban on publication of the Respondent's name pursuant to s. 13(4.1).

HEINRICHS, P.J.

INTRODUCTION

[1] The Law Enforcement Review Agency received a complaint from E.P., made by way of a letter dated May 18, 2017. The Agency investigated the complaint and then the Commissioner declined to take any further action on the matter. The Commissioner, in his letter dated May 30, 2017, explained to E.P. "that the subject

matters of your complaint are in part service related and the others criminal allegations; you have not alleged a default under section 29 of the Act.”

[2] The Commissioner then went on to explain the procedure and timeframes for filing a complaint. He found that the subject matter of E.P.'s complaint was more than 30 days prior to the sending of the complaint letter and that there had been no request to extend the filing deadline. In addition, in this particular case, there were insufficient reasons for extending the 30-day filing period.

WHO THE COMPLAINT IS ABOUT

[3] At the oral hearing of this matter on November 20, E.P. confirmed that his argument is contained in the letters he has filed. He was - and is - complaining about the actions of many Winnipeg Police Service officers, but is unable to name them, save and except for Sgt. A.W. The Commissioner specifically addressed this generalized complaint when he explained that this is related to service issues and possible criminal investigations and so it does not fall under the jurisdiction of the Law Enforcement Review Agency. Moreover, this is not just because E.P. was unable to name any specific officer or officers (except for Sgt. A.W.), but because he could not specify any disciplinary default – as set out in section 29 – that any of these unnamed officers had allegedly committed.

THE COMPLAINT AGAINST SGT. A.W.

[4] At the oral hearing on November 20, E.P. was asked to provide more detail with respect to his complaint against Sgt. A.W. The complaint was focussed on the fact that they had a telephone conversation and that E.P. had sent a fax to Sgt. A. W., but then did not hear back from Sgt. A.W., after he had told E.P. that he would get back to him about checking into a possible criminal investigation. In

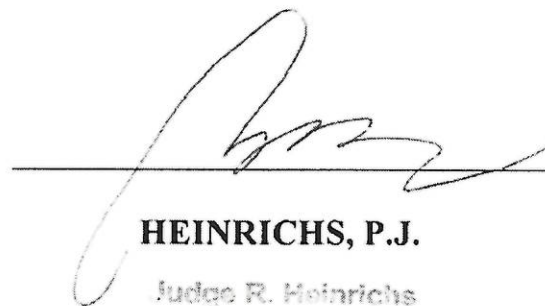
particular, I asked E.P. about the telephone call he had with the Sergeant. He admitted that he had made no notes of this conversation, but that they spoke this past winter. When challenged about that time frame, E.P. suggested that it could have been in 2016. It was then noted that in his letter to the Director of Prosecution (sent on or around June 21, 2016) he stated that, "Sgt. A.W. promised an investigation, and that was over a year ago."

[5] I also asked E.P. if he had provided the LERA Commission or Mr. McKenna, or filed with the court, a copy of the letter he faxed to Sgt. A.W. He admitted that he may not have sent it or filed it and could not produce a copy of it to the court.

[6] I have outlined all of this as it demonstrates why the Commissioner was correct in explaining the issue about the filing deadlines and timeframes. The complaint concerning Sgt. A.W. appears to be about what he promised to do in 2015, and it was not a matter subject to a disciplinary default as listed in section 29. It was, if anything, a possible service issue – not subject to a LERA judicial review – and it was most definitely long outside of the timeline for filing a complaint under the Act.

CONCLUSION

[7] I am satisfied that in this case the Commissioner understood his role, he did what the Law Enforcement Review Act required him to do and he gave a clear and rational decision as to why he was declining to take further action on this matter. I will not interfere with his decision.



HEINRICHS, P.J.
Judge R. Heinrichs