

LAW ENFORCEMENT
JAN 03 2003
REVIEW AGENCY

IN THE MATTER OF: Law Enforcement Review Act
Complaint No. 5613

AND IN THE MATTER OF: An Application pursuant to s. 13
Of The Law Enforcement Review Act
R.S.M. 1987, c. L75

BETWEEN:

E.H.

Complainant/Appellant,

- and -

CONSTABLE M. S.

Respondent.

EXCERPT FROM PROCEEDINGS, REASONS FOR DECISION had
and taken before The Honourable Judge Pullan, held at the
Law Courts Complex, 408 York Avenue, in the City of
Winnipeg, Province of Manitoba, on the 31st day of October,
2002.

APPEARANCES:

MR. DENIS GUENETTE, for the Commissioner.
MR. PAUL MCKENNA, for the Winnipeg Police Association.

NOTE: For the purposes of distribution, personal information has been removed by the Commissioner.

1 EXCERPT FROM OCTOBER 31, 2002

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3 THE COURT: The Law Enforcement Review Act directs
4 my consideration of the issues here under s. 13(3) as to
5 whether the Commissioner erred in declining to take further
6 action on Mr. H's complaint on the basis that there is
7 insufficient evidence supporting the complaint to justify a
8 public hearing.

9 I have had the benefit of very full submissions.
10 I have reviewed and considered the Commissioner's file
11 material. I have concluded that the Commissioner did not
12 err. The investigation was conducted in a reasonable
13 fashion and in determining whether or not the evidence he
14 had justified a public hearing, I find that he came to the
15 correct conclusion.

16 I appreciate that Mr. H's complaint takes a
17 very different view of the facts than does the officer
18 respondent and the witness, tow truck driver. I have noted
19 that fact, but even so, I cannot say the Commissioner erred
20 in his conclusion.

21 As to Mr. H's submission that I ought to
22 direct the matter back to the Commissioner for further
23 investigation, I cannot find that a further investigation as
24 to the quantity of degree or further questions of Constable
25 S. are necessary. As to an investigation of a possible
26 collaboration between Constable S and the tow truck
27 driver witness, there is nothing at all to support any
28 suggestion of that kind.

29 As to the question raised by Mr. H
30 essentially directing consideration of s. 7 of the Act and
31 the timing of the supplying of the complaint to the
32 respondent and the effect, if any, on the developments from
33 there, in this case, I find it is not necessary to deal with
34 that issue.

1 So in conclusion, I am satisfied that the
2 Commissioner did not err in declining to take further action
3 on this complaint.

4 That is the decision in connection with this
5 matter.

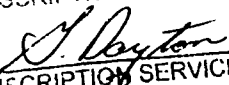
6 (EXCERPT CONCLUDED)
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CERTIFICATE OF TRANSCRIPT

I, **DEANNA DENISET**, hereby certify that the foregoing pages of printed matter, numbered 1 to 2, are a true and accurate transcript of the proceedings recorded by a sound recording device that has been approved by the Attorney-General and operated by court clerk/monitor, Louise Trudeau, and has been transcribed by me to the best of my skill and ability.



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