


file number: R2014/26078



11 August 2014

Justice Garde
President
President's Chambers
Victorian Civil and Administrative Tribunal (VCAT)
55 King Street
Melbourne 3000

Dear Justice Garde,

This is in response to your letter of 05 August 2014. It is indeed a great privilege to receive a letter from the President of VCAT itself. [1] You have gone to some lengths in addressing the points raised.

I agree with you that Section 71(3) of the Victorian Civil and Administrative Tribunal (VCAT) Act 1998 does not indicate time frames for rejecting an application. The Principal Registrar will therefore have the freedom and flexibility to take as much or as little time in rejecting an application. [2] I would say that Parliament does (did) not intend to constrain the role of the Principal Registrar by specifying time frames under this section. This is in line with the general proposition that Principal Registrars' ought to be afforded more powers in Tribunal matters, and this seems to be the case in most instances, such as this one.

My complaint was also highlighting the timeliness of the decision by the Principal Registrar on 06 August 2014 in corroboration to his decision on the 08 July 2014. To re-iterate, the latter decision was made in just one hour or so, whereas the decision on 06 August 2014 took one week. In effect my complaint was highlighting both timeliness and consistency, as promulgated under the VCAT Charter. Your response only addresses timeliness in itself, not timeliness and consistency together. To provide an example, the letter of 08 July 2014 from the Principal Registrar (delivered by hand at VCAT) is identical to the one of 06 August 2014 (sent by post and e-mail), with only a minor change to the content, yet the latter decision took one week. They were both Residential Tenancies applications. Although the application on

the 08 July 2014 was lodged as an application for review, it was in the form of a fresh application. The minor change to the letter of 06 August 2014 is in effect the decision of the Principal Registrar, which goes on to say that “...This has been confirmed by order of the Tribunal dated 08 July and again by the order dated 25 July 2014”. I am therefore at a loss to comprehend how the latter decision, in confirming the same decision the Principal Registrar made on 08 July 2014 would engage one week, and not one hour as it had done previously.

Furthermore, I disagree that my complaint lacked substance. My complaint is not so much reliant on experience as such, but factual matters. I appreciate that if my complaint was about the service level I had received (experienced) it would come under experience. [3] However, I am putting forward matters that are of a factual nature. In practice, the dissimilarity between one hour and one week are not contestable.

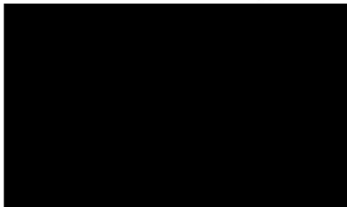
In your letter, you say that the hearing notice created on 16 July 2014 was sent by express post to the address provided in my application of 17 July 2014. Note that there was never an application lodged on the 17 July 2014. I lodged a letter at the VCAT counter on the 16 July 2014 requesting the opportunity to lodge written statement(s)/affidavit(s), and on this letter I requested that all correspondence needed to be sent via e-mail or SMS messaging as I was not at a fixed address. This letter was followed-up with another letter lodged at the counter on 18 July 2014, with a temporary address in Mordialloc, VIC 3195, again highlighting the need for communicating via e-mail or SMS messaging. At no point whilst lodging these letters was I told of the hearing notice sent out on the 16 July 2014 or the hearing itself scheduled for the 25 July 2014. I was only told of the hearing scheduled for the 25 July 2014 on the 23 July 2014, by the counter staff. The e-mail from VCAT Residential Tenancies was also on the same day, therefore there was no real advantage in using what is purportedly an expeditious method of communication. I appreciate that these are additional services to the notice of hearing sent via post, but the e-mail was sent too close to the hearing date and I had not received any SMS message to date.

In addition to the factual matters raised above, I have experienced several instances where file access was delayed or prevented where I was a party to the proceeding. I needed (was advised) to lodge repeated (one additional) file access requests for the same file, and whilst doing so, the file was passed to the other party and this meant delays, and I had to make repeated visits to VCAT, causing much cost and inconvenience.

On an unrelated matter, I had asked for written reasons for the proceedings before Deputy President Barker, before the conclusion of the hearing on 25 July 2014, however, I have not received a response to this request. I note that some members note requests for written reasons on the order itself.

Anyway, the fact remains that I am not in receipt of these reasons.

Yours sincerely,



Mr



[1] -- Please note that although I was lucky enough to receive this letter, there has been instances where some correspondence sent to this address, not necessarily from VCAI, have gone missing. So please send any future correspondence by post (preferably registered) AND by e-mail.

[2] -- However, best practice and efficiency would entail handling the application promptly, without delay.

[3] -- Not to say that these complaints are without merit.