



2019 TAHP 02
Report issued: May 3, 2019
Citation issued: October 18, 2017
[REDACTED]

IN THE MATTER OF THE *TEACHERS ACT*, SBC 2011, c. 19
AND
IN THE MATTER OF A HEARING CONCERNING
SCOTT NELSON CLAZIE
(An Authorized Person under the *Teachers Act*)

REASONS FOR DECISION ON FINDINGS AND DETERMINATION

Written submissions filed: March 4, 2019
Panel: Sarah Levine, Chair, John Hall, Panel Member, Peter Van Huizen, Panel Member
Counsel for the Commissioner: Maureen S. Boyd
Counsel for the Respondent: Robert A. Mulligan, Q.C.

INTRODUCTION

- [1] A Citation was issued to Scott Nelson Clazie, (the “Respondent”) pursuant to section 56(1) of the Teachers Act, S.B.C. 2011, c. 19 (the “Act”) on October 18, 2017 (the “Citation”).
- [2] The Respondent was an authorized person under the Act (Professional Certificate No. L124607), issued by the B.C. College of Teachers (the “College”) on September 6, 1989, and continued under the Act on January 9, 2012. From 2012 to 2015, the Respondent was employed as an elementary school teacher and vice-principal by School District No. 61 (Greater Victoria) (the “District”).
- [4] On or about April 20, 2015, the District placed the Respondent on an administrative leave from his employment with the District.
- [5] In September 2015, the Respondent commenced a medical leave of absence from his employment with the District, which has continued to this date.

[6] On September 21, 2015, the Superintendent of the District made a report about the Respondent to the Commissioner, under section 16(6) of the *School Act*, R.S.B.C. 1996, c.412 (the “School Act”).

[7] On October 18, 2017, the Commissioner issued the citation to the Respondent.

[8] The Respondent denies that he has engaged in conduct that constitutes professional misconduct, but he does not intend to return to work as a teacher in the Kindergarten to grade 12 school system.

JOINT APPLICATION AND SUBMISSIONS OF THE PARTIES

[9] The Commissioner and the Respondent have made a joint application to the Panel to resolve this matter under section 63(1)(a) by dismissing the Citation (the “Application”).

[10] On March 4, 2019, the Commissioner and the Respondent entered into an agreement in respect of the Citation (the “Agreement”).

[11] Pursuant to the Agreement, the Respondent will relinquish his Certificate of Teaching on the date that this decision is issued. The Respondent agrees that the Director of Certification will process this relinquishment on the basis of the Agreement and without further notice to him.

[12] Pursuant to the Agreement, the Commissioner agrees that the issues in the Citation are resolved without requiring witnesses to attend to give evidence at a hearing.

[13] The Commissioner and the Respondent made joint submissions in support of the Application.

[14] The parties jointly submit that there is no public interest in proceeding to a hearing on the substance of the allegations because the outcome reached in the Agreement

- a. effectively provides as good or better protection to students than could be obtained through a hearing;
- b. can be obtained without requiring witnesses to testify; and
- c. is certain.

[15] The parties submit that the Agreement ensures that the Respondent will never teach in the British Columbia kindergarten to grade 12 school system.

[16] The parties submit that if this matter were to proceed to a hearing and adverse determinations were made against the Respondent, the most serious consequences that may be imposed pursuant to section 64 would be to require the Respondent to relinquish his teaching certificate and to require the Director of Certification to not re-issue a teaching certificate to the Respondent for a fixed or indeterminate time.

[16] The parties submit that the Agreement provides a degree of protection to students and to the public such that it is not necessary in the public interest to proceed with a hearing.

[17] The parties submit that if an agreement similar to the Agreement were reached with a respondent prior to the issuance of a citation, the Commissioner would have the power to decide to take no further action under section 52 of the Act on the basis that it is not in the public interest to do so. In making such a decision, the Commissioner would be permitted to consider the protection of students achieved by the Agreement, the fact that the outcome is certain, and the cost of proceeding to a hearing, including the emotional stress and impact on witnesses and the use of Branch resources.

[18] The parties submit that once a citation has been issued, the Act does not give the power to the Commissioner to rescind a citation.

[19] For these reasons, the parties request that the Panel dispose of the Citation pursuant to subsection (63)(1)(a) by dismissing the Citation without a hearing on the substance of the allegations, on the basis of the substance of the Agreement.

DECISION

[20] The Panel accepts the joint submissions of the parties. The Agreement provides that the Respondent will permanently relinquish his teaching certificate, and that the Respondent will not ever apply for authorization to teach under the Act or under any successor legislation, and that the Respondent understands that the Director of Certification will never consider an application from him and will never issue to him a certificate of qualification, an independent school teaching certificate or a letter of permission, or any other authorization under the Act. The Panel accepts the parties' submissions that these provisions of the Agreement provide the same or more protection to students and the public in British Columbia than would an Order of this Panel were it to hear evidence and make a determination after a hearing.

ORDER

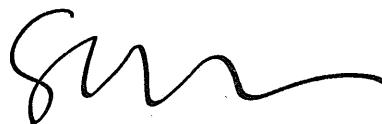
[21] The Citation is dismissed under section 63(1)(a) of the Act.

PUBLICATION

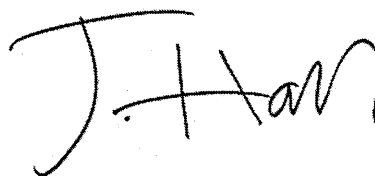
[22] The Panel directs publication of these reasons under section 66(2) of the Act.

For the Panel

Date: May 3, 2019



Sarah Levine, Panel Chair



John Hall, Panel Member



Peter Van Huizen, Panel Member