



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

Citation: *Aylward v. Law Society of Newfoundland
and Labrador*, 2017 NLCA 67

Date: November 21, 2017

Docket: 201701H0088

BETWEEN:

GORDON AYLWARD

APPELLANT/APPLICANT

AND:

LAW SOCIETY OF NEWFOUNDLAND
AND LABRADOR

RESPONDENT

Coram: Welsh J.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador
Trial Division (G) 201601G3619

Application Heard: November 21, 2017

Decision Rendered: November 21, 2017

Counsel for the Appellant/Applicant: Self Represented

Counsel for the Respondent: Daniel M. Boone Q.C.

REASONS FOR DECISION

Welsh J.A.:

[1] In this application, Gordon Aylward requests an order of the Court requiring the lay bench member on the Complaints Authorization Committee, to which a matter had been referred by the Law Society of Newfoundland and Labrador, “to confirm directly to [Mr. Aylward] that he participated in and

fully supported the decision of the Committee to dismiss the complaint allegations filed by [Mr. Aylward].”

[2] Under section 44(2) of the *Law Society Act, 1999*, SNL 1999, c. L-9.1, the complaint filed by Mr. Aylward was referred to a complaints authorization committee (the “Committee”). The Committee dismissed the allegation pursuant to section 45(2) of the *Act*:

Where the complaints authorization committee is of the opinion that there are no reasonable grounds to believe the respondent has engaged in conduct deserving of sanction, the committee shall dismiss the allegation and give notice in writing of the dismissal to the complainant and the respondent.

[3] The written “Summary and Determination” of the Committee clearly states: “Meeting Date: May 9, 2016”, the names of the parties, and “Complaints Authorization Committee – Donald Anthony, Sheila Greene, Bert Riggs”. Mr. Riggs was the lay member of the committee (section 42(1) of the *Act*). The Committee concluded, at paragraphs 74 and 77:

On the basis of the information on file, the Complaints Authorization Committee is of the opinion that there are no reasonable grounds to believe that [Brenda Grimes or Phyllis Weir] has engaged in conduct deserving of sanction within the meaning of section 41(c) of the *Law Society Act*.

The disposition is not signed by the Committee members.

[4] Mr. Aylward submits that he is entitled to know whether the lay bench member agreed with the Committee’s disposition. I do not accept this proposition. There is nothing either in the legislation or provided to this Court to indicate that the decision of the committee must be unanimous or, alternatively, that the lay bench member must be part of the majority. In the absence of a provision stating otherwise, it may be inferred that a majority of members on the committee could determine the disposition. Further, there is no reason to require the lay bench member to be part of the majority if the decision is not unanimous. A complainant who is dissatisfied with the committee’s decision to dismiss an allegation has the option of appealing the dismissal to the Trial Division, which Mr. Aylward, in fact, did.

[5] In the result, Mr. Aylward has not established a basis on which to conclude that the lay bench member on the Committee was required “to confirm directly to [Mr. Aylward] that he participated in and fully supported the decision of the Committee to dismiss the complaint”.

[6] Accordingly, the application is dismissed. In accordance with the submission of the Law Society, costs of this application shall be costs in the cause of the appeal.

B. G. Welsh J.A.