

2018 LSBC 35
Decision issued: November 28, 2018
Citation Authorized: January 25, 2018
Citation Issued: February 2, 2018
Citation Re-authorized: October 18, 2018
Citation Re-issued: October 30, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA

In the matter of the *Legal Profession Act*, SBC 1998, c. 9

and a hearing concerning

SEANNA MICHELLE MCKINLEY

RESPONDENT

DECISION ON APPLICATION FOR SUBSTITUTED SERVICE

Written submissions: November 14, 2018
Bencher: Steven McKoen
Discipline Counsel: Alison Kirby

INTRODUCTION

[1] The Law Society seeks an Order for substituted service on Seanna Michelle McKinley, also known as Seanna Michelle Proulx (the “Respondent”), pursuant to Rule 10-1(2) of the Law Society Rules by:

- a. posting the notice or document to the Respondent’s member portal on the Law Society’s Website, which she can access using her surname and password at www.lawsociety.bc.ca/lsrc/apps/members/index.cfm;
- b. sending a letter by ordinary mail to the Respondent care of the Métis Commission for Children and Families of BC at #10 – 111 Oriole Road, Kamloops, BC, V2C 4N6 notifying the Respondent that the notice or document is available in accordance with paragraph (a) above; and

- c. sending a letter by ordinary mail to the Respondent to her last known business address at 285 Seymour Street, Kamloops, BC, V2C 2E7 notifying her that the notice or document is available in accordance with paragraph (a) above.

EVIDENCE

- [2] The Law Society has been unsuccessful in serving the Respondent despite many attempts since February 2, 2018, including by using the contact information the Respondent has on file with the Law Society.
- [3] On January 31, 2018, the Respondent informed a Law Society investigator that she would not cooperate with the Law Society by advising of a place to serve documents on her or make herself available for personal service.
- [4] The Respondent did inform the investigator that she was temporarily working at the Métis Commission for Children and Families of BC in Kamloops, BC.
- [5] The Law Society has been unsuccessful in attempting personal service on the Respondent at the Métis Commission offices.
- [6] A citation was authorized against the Respondent on January 25, 2018 and issued on February 2, 2018.
- [7] Pursuant to Rule 4-19, the citation must be served on the Respondent not more than 45 days after the citation was issued. In order to comply with that rule, the Law Society sought and received an order for substituted service on March 13, 2018.
- [8] Despite the order for substituted service, the Law Society, due to a miscalculation of the dates involved, failed to serve the initial citation within the time permitted. As such, the citation was re-authorized on October 18, 2018 and re-issued on October 30, 2018.
- [9] The Law Society has now applied for another order for substituted service on the same grounds on which such an order was previously granted.

ANALYSIS

- [10] Rule 10-1(2) of the Law Society Rules allows substituted service: “If it is impractical for any reason to serve a notice or other document ... whether or not there is evidence that (a) the notice or other document will probably (i) reach the

intended recipient, or (ii) come to the intended recipient's attention, or (b) the intended recipient is evading service.

[11] I find that it remains impractical for the Law Society to continue to seek to serve the Respondent in the ordinary course. While the Rule does not require a finding that the Respondent is evading service, I find that the evidence before me continues to support the conclusion that the Respondent is willingly not making herself available to receive service, despite being informed that the Law Society has been attempting personal service.

DECISION

[12] As a result, I grant the Law Society's application for a second Order for substituted service on the Respondent pursuant to Rule 10-1(2) of the Law Society Rules by:

- a. posting the notice or document to the Respondent's member portal on the Law Society's Website, which she can access using her surname and password at www.lawsociety.bc.ca/labc/apps/members/index.cfm;
- b. sending a letter by ordinary mail to the Respondent care of the Métis Commission for Children and Families of BC at #10 – 111 Oriole Road, Kamloops, BC, V2C 4N6 notifying the Respondent that the notice or document is available in accordance with paragraph (a) above; and
- c. sending a letter by ordinary mail to the Respondent to her last known business address at 285 Seymour Street, Kamloops, BC, V2C 2E7 notifying her that the notice or document is available in accordance with paragraph (a) above.