

2014 : No. 01 Spring

Douglas Edward Dent

100 Mile House, BC

Called to the bar: September 14, 1976

Discipline hearing : October 11, 2013

Panel : Vincent Orchard, QC, Chair, Jennifer Chow and June Preston

Decision issued : January 27, 2014 (2014 LSBC 04)

Counsel : Carolyn Gulabsingh for the Law Society; Ravi Hira, QC and Michael Drouillard for Douglas Edward Dent

Facts

In May 2011, Douglas Edward Dent's client and the client's wife entered into a separation agreement. The client agreed to pay his spouse \$5,000 by way of five instalments of \$1,000. On June 18, the client provided Dent with post-dated cheques, each in the amount of \$1,000. These equalization payments were to be deposited in Dent's trust account and then paid to the client's spouse.

On June 18, the client also provided a \$4,000 cheque to Dent for legal fees. Dent deposited this cheque and the first cheque of \$1,000 into his trust account.

On July 4, Dent deposited the second equalization payment into his trust account. The same day, Dent transferred \$3,480.20 from his trust account as payment of his client's December 2010 invoice.

On July 14, Dent emailed the client to advise that he intended to provide the first equalization payment to the client's spouse. He also referred to discussions with the client at their last meeting about his expectation that the client would forward cheques for \$1,000 in mid-July and mid-August to cover legal work performed since his last account.

On July 16, the client requested a final statement of account that he would pay with a single cheque. Dent replied that his firm would prepare a final statement and expected to receive immediate payment as the client's accounts had remained outstanding for months at a time.

Dent did not forward the first equalization payment to his client's spouse.

On July 19, Dent issued two accounts to the client that totalled \$2,968.40. Instead of waiting for a cheque from the client, Dent transferred funds from trust towards payment of his account, including the \$2,000 representing the equalization payments. Dent included a note to his client that a balance of \$448.60 was owing to the law firm as well as an additional \$2,000 to be forwarded to the client's spouse.

Admission and disciplinary action

Dent admitted that his conduct in improperly withdrawing trust funds to pay fees and disbursements amounted to professional misconduct.

Dent stated that he acted on the mistaken but honest belief that he had obtained the express consent of the client orally on June 18, 2011. There was no record confirming the express oral consent of Dent's client to divert the equalization payments to pay his account.

It was apparent to the panel that Dent acted in haste to pay off his account and, in doing so, preferred his interests to those of his client. He benefited from his misconduct.

In 2001 Dent received a one-month suspension for conduct in connection with the financing of a family home that put him in a conflict of interest with his client due to a personal interest in the transaction. While there had been significant passage of time since this matter of professional misconduct, the panel found it troubling that, in both matters, Dent preferred his own interests to that of his client.

The panel accepted as mitigating factors that Dent had practised law for over 37 years and had made a significant contribution professionally and through volunteer activities in his community.

Counsel for Dent strenuously argued that a suspension would have a detrimental effect on Dent's reputation and that of his firm in a small community.

The panel found that Dent's conduct in withdrawing funds from his trust account to pay fees and disbursements, without express authority to do so, fell markedly below the standard expected of a lawyer. It was necessary for the panel to have due regard for the public interest and the need to ensure the public's confidence in the integrity of the profession generally.

The panel ordered that Dent:

1. be suspended for 45 days; and
2. pay \$4,720 in costs.