

FEDERAL APPEALS PANEL

IN THE MATTER OF AN APPLICATION BETWEEN:

MR GAVIN GRANT

Appellant

-AND-

COMPLAINTS PANEL  
SENIOR ADJUDICATORS' TEAM  
ORIGINAL COMPLAINANT

Respondents

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**RULING OF THE FEDERAL APPEALS PANEL**

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David Graham (Chair)  
Catherine Smart (Vice-Chair)  
Jennie Rigg

26 August 2022

**Ruling**

- (a) The appeal is allowed. We set aside the decisions of the Expedited Case Panel made in this case, and direct that the matter be remitted back to the Senior Adjudicators' Team for reconsideration.
- (b) The parties shall have 7 days from the date of this decision to make representations as to publication of this ruling, in default of which it will be published on the Party website.

**Reasons**

- 1. We heard the parties at 8pm on 24 August 2022. In summary, the facts were not disputed and were as follows:
  - (a) Factual allegations were made against the Appellant by the original complainant, which he denied;
  - (b) The matter was considered by an Adjudicator who referred the matter to an Expedited Complaints Panel.
  - (c) The relevant complaints procedure applying to this complaint provided for a 'standard formal process' where factual investigations were required, and an expedited process for cases where there was no substantial dispute of fact. Paragraph 5.3 required that the initial Adjudicator who considered the

expedited process to be appropriate should refer the matter to the Senior Adjudicators' Team (SAT), who would then determine which procedure to adopt and convene an Expedited Complaints Panel if they considered that appropriate. This step was never carried out in this case.

- (d) The Expedited Complaints Panel met, having been told that the complainant was unable to attend. The Appellant attended and represented that they should not hear the case because it involved disputed allegations of fact which had not been investigated, and in respect of which he had been unable to present a defence.
  - (e) The Expedited Complaints Panel held a hearing at which it questioned the Appellant. It published a decision notice dated 5 October 2021 which determine to refer matters to a formal investigation because there was a need for further information and evidence. On 3 December 2021, a second decision notice was made with an addendum directing the Senior Adjudicators' Team to make a determination under paragraph 5.3 of the relevant procedures to 'determine the appropriate pathway for progression of the complaint'.
2. The Appellant contends that the Expedited Complaints Panel should not have heard the case at all, because the procedure was inappropriate. However, having heard it, he submitted that it was bound to dismiss the complaint because it considered there to be insufficient evidence. The procedures gave it power to either uphold or dismiss a complaint, but not to refer the matter for further investigation.
  3. In our view, it is clear that there was a serious error of procedure insofar as the SAT had never made a decision to convene an Expedited Complaints Panel under paragraph 5.3. We also find on the evidence presented to us that the expedited procedure would have been manifestly inappropriate for this case. Accordingly, the Expedited Complaints Panel was not duly convened and had no power to determine the case at all, nor to make the decisions it did. We must therefore set the decisions aside. The case must go back to the SAT for consideration and, if necessary, investigation under the standard procedure.
  4. The original complainant rightly feels aggrieved that this matter is back at square one after 15 months without the complaint ever being investigated. We note that the SAT have said they will do their best to expedite reconsideration of this matter.