

Justices of the Peace Review Council

**IN THE MATTER OF A HEARING UNDER SECTION 11.1 OF THE
JUSTICES OF THE PEACE ACT, R.S.O. 1990, c. J.4, AS AMENDED,**

Concerning a Complaint about the Conduct of Justice of the Peace Dianne Ballam

Before: The Honourable Justice Joseph A. De Filippis, Chair
 Her Worship Liisa Ritchie, Justice of the Peace Member
 Ms. Lauren Rakowski, Community Member

DECISION TO SCHEDULE HEARING DATES

Presenting Counsel: Marie Henein & Maya Borooah
Her Worship Ballam: Self-Represented

1. This is a decision arising from a set-date proceeding in relation to a complaint about the conduct of Her Worship Dianne Ballam.
2. A 'set-date' is the initial appearance in the judicial discipline hearing process during which dates are scheduled for the hearing proper, any prehearing motions and/or any prehearing conferences. Prior to the set-date, the fact that a hearing has been ordered remains confidential. In accordance with the Procedures of the Justices of the Peace Review Council, the 'Notice of Hearing' setting out the allegations against the subject justice of the peace is filed as an exhibit at the set-date and, subject to any orders of the Hearing Panel, the hearing becomes public.

History of Proceedings

3. The set-date was initially scheduled to proceed on September 9, 2020.
4. Prior to this date, the Registrar received email correspondence from Her Worship Ballam indicating that she suffered from a medical condition that required accommodation. She also requested an adjournment of the set-date due to her medical condition. No motion for reasonable accommodation or for an adjournment was filed.
5. On August 25, 2020, this Panel made an Order permitting Her Worship to inform a friend or other person that a hearing had been ordered and have that person assist Her Worship in the hearing process, if needed (the "Accommodation Order").
6. On September 2, 2020, Presenting Counsel filed a motion seeking:
 - a) An order granting substituted service of the Notice of Hearing on Justice of the Peace Ballam in the form of service by e-mail communication; and,
 - b) An order adjourning the set-date scheduled for September 9, 2020 for two months to reasonably accommodate Justice of the Peace Ballam's medical condition.
7. The motion was heard on September 9, 2020 by teleconference. Her Worship Ballam did not join the teleconference, nor did she have a friend participate on her behalf as permitted by the Accommodation Order. Ms. Henein filed emails confirming that Her Worship had prior notice of the appearance.
8. Presenting Counsel also provided the Hearing Panel with a letter sent to her by Her Worship from Dr. Ramin Safarkish, an anesthesiologist and Interventional Pain Practitioner, who opined that Her Worship required rehabilitation for at least two months.

9. This Panel granted Presenting Counsel's motions for an order for substituted service and an adjournment of the set-date. The set-date was adjourned to Thursday, October 15, 2020 at 9:00 a.m. by teleconference.
10. In making our September 9, 2020 Order, this Panel considered the importance of transparency in the hearing process in order to uphold the objective of this judicial discipline process and Her Worship's needs for accommodation of her medical condition. We confirmed our expectation that the hearing process would proceed on October 15, 2020 and that in accordance with the Procedures of the Review Council, Presenting Counsel would file the Notice of Hearing on that date, thereby making the hearing process public, subject to any further orders by this Panel.
11. This Panel also ordered that should Justice of the Peace Ballam seek a further adjournment, a motion and medical evidence would be required.

October 15, 2020 Set-Date Proceeding

12. The set-date proceeded on October 15, 2020 by teleconference.
13. Her Worship did not join the teleconference, nor did she have a friend participate on her behalf as permitted by the Accommodation Order.
14. Ms. Henein confirmed that Her Worship was served on September 10, 2020 with the Panel's Order of September 9, 2020 and the Notice of Hearing. Proof of substituted service of these documents was filed as Exhibit 1 in this hearing.
15. The Notice of Hearing was filed as Exhibit 2 in this proceeding.
16. Ms. Henein then filed a chain of email correspondence between Presenting Counsel and Her Worship on October 14, 2020, the day prior to the set-date. These emails were filed into the record as Exhibit 3. This Panel observes from the emails filed that Her Worship appears to deny being aware of the present hearing, states that she does not have internet access at her home, is currently staying at a friend's house, and is unable to participate in the set-date proceeding due to her medical condition.
17. Presenting Counsel submits that this correspondence shows Her Worship is aware of the present hearing, can communicate through email and is competent to participate in a teleconference to schedule hearing dates or, if necessary, request a further adjournment.
18. The Panel is satisfied that Presenting Counsel has taken all steps necessary and available to engage Her Worship in the hearing process.

19. The Panel further notes that Her Worship, who is a judicial officer, did not file a motion seeking a further adjournment prior to today's set-date as required by our Order of September 9, 2020.
20. The Panel is of the view that, in the absence of a motion, and sufficient medical evidence, the public interest is not served by adjourning a hearing about the conduct of a judicial officer for an unknown or indefinite period of time.
21. Accordingly, the Panel is of the view that hearing dates should be scheduled and, subject to any submissions and medical evidence advanced by Her Worship, the hearing should move forward without further delay. If Her Worship wishes to put forward any further medical evidence, the evidence should come from a medical expert who is available to be examined and cross-examined under oath. Given the nature of these proceedings and the importance of preserving public confidence in the judiciary and in the complaints process, a letter is not sufficient.
22. Presenting Counsel estimates that four days will be sufficient for the hearing, which this Panel finds reasonable. Specific hearing dates are to be coordinated through the Registrar.
23. With respect to the format of the hearing, Presenting Counsel submits that she is content to proceed by videoconference, as this has become standard practice during the COVID-19 pandemic.
24. The Panel observes that in her correspondence to Presenting Counsel (Exhibit 3), Her Worship states that she requires an in-person hearing as she cannot "absorb what is going on and respond to it properly" over the phone. However, in a different email, her Worship states that she is in a "high-risk" category for catching viruses.
25. In order to accommodate Her Worship's medical condition, this Panel orders that Her Worship will be provided with the option of attending the hearing by videoconference or in-person.
26. With respect to Her Worship's stated internet connectivity issues, this Panel notes that the Council has previously engaged the services of Arbitration Place to assist with virtual hearings. We understand that this venue can provide technical support (including the use of head-sets) to participants in the hearing, should Her Worship require assistance. If Her Worship elects to participate in the hearing virtually, staff of the Council will contact Arbitration Place to see what assistance can be provided to Her Worship to improve her internet connectivity.
27. Proceeding in this fashion balances the objectives of the hearing process, which is to maintain and, where necessary, restore, public confidence in the judiciary, with Her Worship's need for reasonable accommodation.

28. The matter is adjourned with four hearing dates to be scheduled through the Registrar.

Dated at the City of Toronto in the Province of Ontario, October 16, 2020.

HEARING PANEL:

The Honourable Justice Joseph A. De Filippis, Chair

Her Worship Liisa Ritchie, Justice of the Peace Member

Ms. Lauren Rakowski, Community Member