

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 Santino Spadafora

Before: The Honourable Justice Esther Rosenberg
Regional Senior Justice of the Peace Bernard Swords
Ms. Leonore Foster, Community Member

Hearing Panel of the Justices of the Peace Review Council

REASONS FOR ADJOURNMENT *SINE DIE*

Counsel:

Mr. Scott K. Fenton
Fenton, Smith
Presenting Counsel

Mr. Mark J. Sandler
Cooper, Sandler, Shime & Bergman LLP
Counsel for His Worship Santino Spadafora

REASONS

Background

1. This is a hearing, pursuant to section 11.1 of the *Justices of the Peace Act* into a complaint about the conduct of Justice of the Peace Santino Spadafora of the Ontario Court of Justice. The decision to order a hearing was taken following the investigation of the complaint in accordance with the Review Council's complaints process. A three-person complaints committee, consisting of a judge, a justice of the peace, and a community or lawyer member, investigated the complaint and ordered, pursuant to section 11(15)(c) of the *Act* that a formal hearing be held.
2. Pursuant to section 11.1(1) of the *Act*, the Honourable Chief Justice Annemarie E. Bonkalo, Chair of the Review Council, established this Hearing Panel to hear evidence and determine whether there is evidence to support a finding of judicial misconduct and, if so, to determine the appropriate disposition of the complaint under section 11.1(10).
3. On January 24, 2014, Presenting Counsel, Mr. Scott Fenton, filed the Notice of Hearing setting out the allegations about His Worship's conduct which are summarized below:

Between 2005 and 2011, His Worship submitted expense claims in which he misrepresented information and claimed for overnight stays and driving distances that were incorrect, excessive and/or inappropriate. When made aware of issues, he provided information to the Manager of Regional Judicial Support that misrepresented his travel dates, places of stay and distances of travel.

4. Five dates were scheduled for evidence, commencing on November 24, 2014.
5. On November 4, 2014, His Worship filed a motion for adjournment of the hearing.
6. On November 13, 2014, His Worship submitted a letter with Chief Justice Bonkalo, confirming his full retirement, effective January 31, 2015. He withdrew his motion for an adjournment.

Reasons for Adjournment *Sine Die*

7. In the circumstances, it is not a good use of public funds to proceed with the hearing. A minimum of five full days were scheduled for the hearing of evidence. The Panel would then need time to deliberate and issue a decision. It is unlikely that the hearing process would be fully concluded before the

retirement would take effect. On January 31st, when the retirement takes effect, the Review Council and this Hearing Panel will lose jurisdiction over the matter.

8. At this time, pending the retirement taking effect, the Hearing Panel adjourns this matter *sine die*. If His Worship were to ever attempt to return to office as a justice of the peace, the Review Council would regain jurisdiction and the hearing process would reactivate and continue.
9. His Worship has made a request, pursuant to section 11.1(17) of the *Justices of the Peace Act*, for the Panel to recommend that he be compensated for the cost of legal services incurred in connection with the hearing. The Panel will advise of our decision once we have had an opportunity to review the account.

Dated this 14th day of November, 2014.

HEARING PANEL:

The Honourable Justice Esther Rosenberg, Chair

Regional Senior Justice of the Peace Bernard Swords

Ms. Leonore Foster, Community Member