

SINGLE MEMBER OF REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

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| Regulated Member: | Thomas Johnston [0089819] |
| Single Member Decision of: | Patrick Bligh-Cheesman |
| Case Number: | CON001625 |
| Date of Decision: | 25 January 2023 |

1. CHARGE:

Between 1 January 2021 and 1 February 2022, you failed to comply with RICS' requirements in respect of Continuing Professional Development (CPD) in that you have not completed and recorded or caused to be recorded, at least 20 hours of CPD on the RICS CPD portal.

2. ALLEGED RULE/S BREACH

Contrary to Rule 6 of the Rules of Conduct for Members 2007 version 6.

The Regulated Member is therefore liable to disciplinary action under Bye-law 5.2.2(c)

3. MATERIALS CONSIDERED

I have considered the Investigation Report, together with the associated statements and exhibits.

4. BACKGROUND

Mr Johnston is a member of RICS (MRICS) and was first admitted on 27.11.1992. This is his third breach of CPD requirements.

5. FINDINGS OF FACT

The records show that he recorded 0 hours CPD in 2015 and 0 hours in 2020 and received a caution and caution and fine respectively for those breaches. Mr Johnston has recorded no CPD for 2021. Having been a member since 1992 and been subject to two previous sanctions, I am satisfied that he would have been aware of his obligations in respect of CPD. The fine in respect of the 2020 breach has been paid as has the membership subscription for 2021.

During the investigation, the records indicate that Mr Johnston should have received 8 written communications from RICS by way of reminders in respect of his CPD both before and after the due date for the 2021 CPD. RICS also made a phone call to the member on 5 August 2022 and sent a Letter before disciplinary action the same day. Mr Johnston responded saying that he intended to retire at the end of October 22.

A Disciplinary Proceedings letter was sent to Mr Johnston on 21.11.2022 to which he responded saying that 'I retire at the end of November 22.'

There are no recorded relevant exemptions or concessions. Furthermore, there is no returned listing questionnaire in the report.

I find the facts as set out in the investigation report proved.

6. LIABILITY FOR DISCIPLINARY ACTION

The requirement to complete and record CPD is designed to ensure that a member's knowledge is up to date and ultimately to ensure public protection. I find that Mr Johnston's failure to comply with those requirements is sufficiently serious as to give rise to a liability to disciplinary action.

7. REGULATORY SANCTION

This is Mr Johnston's third breach of the RICS requirements for CPD and I find that he is liable to regulatory sanction. There is a presumption of expulsion for a third breach subject to the circumstances of the case and any mitigating or aggravating factors.

I have carefully considered the Sanctions Policy and the aggravating and mitigating factors of this case. I have noted that this is the second year running that Mr Johnston has submitted no CPD. Given the previous sanctions given to Mr Johnston for breach of CPD requirements, I do not consider that either a caution, reprimand or fine or combination thereof would be sufficient in this case. I do not consider that either a condition or undertaking to do something that is already an obligation on the regulated member would be appropriate, I have therefore decided that Mr Johnston should be subject to expulsion from membership.

8. ORDER MADE

In accordance with Part VI of the Disciplinary, Registration and Appeal Panel Rules, I make the following order:

That Mr Johnston be expelled from RICS membership.

9. TAKING EFFECT OF ORDER

In accordance with Part VI of the Tribunal Rules, this order will take effect 14 days from service of the Single Member's decision upon the Regulated Member, unless notification in writing is received from the Regulated Member or RICS stating that they consider that the findings and/or the Regulatory Sanction imposed by the Single Member are wrong.

10. COSTS

In accordance with Part VI of the Disciplinary, Registration and Appeal Panel Rules, I make the following order in respect to costs:

In the absence of any statement of means and/or any documentary evidence of Mr Johnston's financial circumstances, I have been unable to identify any reason for reducing the costs. I have concluded that the costs are fair and reasonable.

I therefore order that Mr Johnston pay the costs of £350.

11. PUBLICATION

In accordance with Part VI of the Tribunal Rules, the Single Member's Record of Decision will be published following the expiry of 14 days from service of the Single Member's decision upon the Regulated Member.