

Royal College of Veterinary Surgeons

v

J.L. Kay

Decision on Restoration

1. The Application before the Committee is Miss Kay's second application for Restoration to the Register of the Royal College of Veterinary Surgeons. It is her Application and therefore the burden of satisfying the Committee that she should be restored to the Register lies with her. These being civil proceedings, the burden she has to discharge is to satisfy the Committee on the balance of probabilities that she is a fit and proper person to be restored to the Register.
2. On 11th December 2006 a number of the members of this Committee were involved in a Hearing which resulted in a finding that Miss Kay was unfit to practice. That same Hearing also resulted in an adjournment so that the issue of sanction could be further considered. Guidance was given Miss Kay as to the steps she should take to influence the Committee's final decision on sanction. A number of the members of this Committee adjudicated on the adjourned Hearing which took place on 26th January 2007. It was at this adjourned Hearing that it was resolved that the Registrar be ordered to remove the Applicant's name from the Register. The view of that Committee, as expressed in its Decision, was that a period of time needed to pass to enable the Applicant to gain control over her alcohol addiction. In view of her continued abuse of alcohol, it was considered that it was not safe for the Applicant to continue in practice as a veterinary surgeon at that juncture.
3. Miss Kay's Application for Restoration was heard by the Committee on 28th January 2008. The evidence heard on that occasion revealed that the Applicant had been practising as a veterinary surgeon notwithstanding that she had been removed from the Register. This was considered to be a sufficiently serious matter in itself to warrant a rejection of her application. In addition the Committee was concerned that the Applicant had dispensed with all counselling, and that in August 2007 she had cancelled planned meetings with the Veterinary Surgeons Health Support Programme and Alcoholics Anonymous meetings. The result was that she had been without support for a full five months prior to that Hearing. Concern was also expressed by the Committee that the Applicant, despite the advice given to her by the Committee at her last Hearing, had failed to provide documentary evidence to confirm that she had gained control over her alcohol addiction. The Committee also expressed reservations about whether the Applicant had recognised the severity of her addiction and concern about whether she would be able to deal with the stresses inherent in a return to practice without resorting to alcohol.
4. Miss Kay's present Application was issued by the way of a letter and supporting submission which was received by the College on the 31st March 2009. In it the

Applicant states that she has now met all concerns and conditions voiced by the Disciplinary Committee on both 26th January 2007 and 29th January 2008.

5. Yesterday the Applicant gave evidence on affirmation and responded to questions put to her by Counsel on behalf of the College. In addition the members of this Committee asked their own questions of the Applicant. The account which the Applicant gave was as follows: she acknowledged that alcohol had affected her judgement; she recognised the College's role in protecting the welfare of animals and the public but she said that alcohol did not affect her ability to handle animals and she had never put them at risk; she stated that she had been off the Register for 2 ½ years and that during that time she had read the Veterinary Record and the Veterinary Times occasionally and had considered information from drug and equipment companies; she had opened and expanded her pet shop but given the small profit margins from that business she could not make a living out of it.
6. At the end of her submission she made an additional statement concerning her current financial predicament. The Legal Assessor, at her request, asked a number of questions designed to elicit the salient features of this aspect of her case. The essence of her account was that she was concerned about her ability to survive financially if she was not restored to the Register in the near future. She explained that she was under severe financial pressure as a result of a shortfall between her mortgage commitments on her current home and the net income she was able to secure from the pet shop that she was running in Sawbridgeworth. In essence her evidence was that she had only been able to make ends meet over the recent months by having recourse to the capital sum she was paid by her former partner pursuant to a court order. Her estimation was that she could not survive financially for any longer than approximately a further three months.
7. The Applicant also called Mr. O'Connor, the National Coordinator of the Veterinary Surgeons Health Support Programme, to give evidence in support of her Application. He gave evidence about the level and degree of contact that he had had with the Applicant since approximately January 2008, and the advice that he had given and the recommendations that he had made to the Applicant during the period that he had been advising her. He said that he had advised the Applicant on abstinence, attendance at Alcoholics Anonymous and that he had advised her to undertake the second set of blood tests, which were taken on 26 June 2009. However, he had not advised her at that time, to subject herself to a random blood testing programme.
8. Members of the Committee asked Mr. O'Connor a number of questions, in particular about his experience with other professional disciplinary bodies. He indicated that those other professional bodies were able to address the ongoing fitness to practice of a member with alcohol or substance addiction by making registration subject to conditions. It appears to the Committee that it is unfortunate this provision does not exist in relation to veterinary surgeons enabling such a course to be followed. However, a similar objective could be achieved by an adjournment following acceptance of suitable undertakings by an Applicant. Any such adjournment would have to be for a lesser period than the 10 months allowed by the Rules for a re-application for restoration to the Register. In many cases this might be an insufficient period to enable an Applicant to address adequately the issues which have their basis in addiction.

9. Mr. O'Connor explained his role as National Co-ordinator of the VSHSP and informed the Committee of his background and qualifications in psychiatric nursing, alcohol dependency and other addictions. Miss Kay had made contact with him on 21st January 2008 and he saw her for 10 out-patient consultations and has had 35 telephone consultations with her to date. He gave evidence that Miss Kay had recently begun to show insight into her addiction and that the only solution was total abstinence. He had encouraged her to renew her attendance at AA meetings. He explained the relevance of the blood test results. The blood sample taken on 12th March 2008 indicated a degree of liver damage, while the more recent sample taken on 26th June 2009 showed all parameters within the normal range. He explained that recovery from addiction was a journey and that Miss Kay had made significant progress since he first spoke to her.
10. In accordance with the advice received from the Legal Assessor the Committee has considered whether, on the balance of probabilities, Miss Kay is now a fit and proper person to be restored to the Register. In the Committee's opinion Miss Kay has some way to go. However, there remains a realistic prospect that, subject to her fulfilling suitable undertakings, she could, in a relatively short period of time, satisfy the fit and proper person test.
11. In reaching its decision, the Committee considered all those factors identified by the Legal Assessor and in particular the following.
12. First, whether there has been acceptance by the Applicant of the Findings of the Committee at the original inquiry Hearing. In the judgement of the Committee, Miss Kay has now accepted these Findings.
13. The Committee is satisfied that Miss Kay now appreciates the seriousness of the original Findings.
14. The Committee had regard to the need for protection of the public and the future welfare of animals when considering this Application. It is its judgement that the length of time that the Applicant has been off the Register and the lack of evidence of having undertaken any significant CPD in that period render Miss Kay unfit to return to practice at this time.
15. The Committee was also concerned that she has not made sufficient effort to provide evidence which might persuade the Committee that she is a fit and proper person to be restored to the Register, in the form of random blood tests, evidence of discussing her alcohol addiction with her GP and continuing attendance at Alcoholics Anonymous support meetings. However, the Committee recognises and commends her commitment to the VSHSP and is encouraged by the considerable progress she has made in addressing her addiction.
16. The Committee recognises the significant impact which removal from the Register has had on Miss Kay but the onus remains on Miss Kay to demonstrate to the Committee that her name should be restored to the Register. In the Committee's judgement she has not yet done so.

17. In its view the Applicant needs to be able to satisfy the Committee that she is continuing to attend Alcoholics Anonymous meetings; that blood tests taken at random intervals by her GP confirm that she has not been resorting to alcohol; that she has maintained regular contact with the VSHSP organisers for an extended period; that she has undertaken suitable CPD courses and programmes; that she has chosen an appropriate CPD programme for her future; and that she has witnessed another veterinary surgeon in another practice during consultations and surgery sessions. All of these measures require to be corroborated by way of regular reports from third parties.

Conclusion

18. In the light of all of the above, the Committee concluded that judgement should be postponed for a period of six months, during which time Miss Kay should comply with undertakings designed to ensure progress towards rehabilitation. Evidence of complying with these undertakings should provide the Committee with the basis for judgement of her fitness to practice and whether restoration is a realistic possibility.

19. In particular the Committee is of the opinion that Miss Kay needs to be able to show that she has obtained advice from an experienced veterinary surgeon who is currently in practice about the requirements of operating and managing a practice in the current market, and the difficulties and problems she might face when she is ready to recommence practice and the solutions to those difficulties and problems.

20. The record of this Hearing will show that Miss Kay, with the assistance of Mr. O'Connor, has been given an opportunity to consider the undertakings which are annexed to this Decision and has formally assured the Committee of her willingness to comply with each of them. It is because Miss Kay has agreed to comply with these undertakings that the Committee has been persuaded to follow the course that it has on this occasion.

17th July 2009