

FEDERAL APPEALS PANEL

IN THE MATTER OF AN APPEAL BETWEEN:

MR MALCOLM BROWN
Appellant

-and-

COMPLAINTS PANEL (Case 444)
Respondent

RULING OF THE FEDERAL APPEALS PANEL

Catherine Smart
Date: 6 August 2021

Introduction

This case stems from a couple of emails sent by Malcolm Brown in July 2020 about which a complaint was made.

It was considered to be suitable for informal resolution and on 19 January 2021 it was recommended that MB made an apology. This was acceptable to the complainant but MB did not make the apology within the specified period. The matter then went to the formal process culminating in a Panel Hearing on 11 May 2021.

The complaint was upheld and, again, MB was asked to make an apology. Instead he made an Appeal to the Federal Appeal Panel on three grounds.

1. Ground number one - a serious error of process or reasoning.

MB says the Panel displayed both bias and closed minds & made a serious failure of reasoning: also that the complainant had been given an opportunity to provide witnesses that had not been allowed to him.

Response. Having read the papers and listened to the recording of the Panel Hearing, we see no evidence of bias or of the Panel having closed minds.

On the matter of witnesses. No evidence is provided. Also, as M B is not disputing that he wrote the emails, it is difficult to see what a witness would add.

2. Ground number two - new evidence.

Response. MB gives no indication as to what this might be.

3. Ground number three - the sanction was manifestly excessive or lenient.

Response. The result MB wants from the Appeal is a new hearing. As there is no fault to be seen in the original hearing, there is no reason to grant this.

MB then lists a number of places where he disagrees with the Report written by the Panel. Having read the papers and listened carefully to the recording of the Panel Hearing, in our judgement, the comments the Panel made are justified.

This Appeal is not upheld.