

Consumer Complaints Service

Resolving complaints about solicitors

Our Ref: CRO/45399-2004/RT4/AA1/R TUTT CRO

Your Ref:

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Private and Confidential

Ms N Kloster Kotter Dit-Rawe
3 Jefferson House
11 Basil Street
London
SW3 1WS



The Law Society

22 September 2004

Dear Ms Klosterkotter-Dit-Rawe

Your complaint against Piper Smith Watton Solicitors

I write further to my letter dated 3 September 2004. I have now received the solicitor's response to my letter dated 3 August 2004, and I enclose a copy for your information.

I have reviewed the solicitors' response to each of these further complaints and discuss each one separately, below.

1. The Lease

You explained that under the terms of your lease, requests for advance payment had to be certified by an accountant. As the Landlord had failed to comply with this, you asked Ms McLean to raise the issue. You say that Ms McLean failed to deal with this matter, despite the specific request made in your letter dated 21 September 2003.

In his response, Mr Skuse accepts that the lease was not examined by a more experienced member of the firm. He also says that your letter dated 21 September 2003 did not specifically refer to the issue about certification by an accountant.

I have examined your letters carefully. I can see that you requested that the lease be looked at by an expert, and you did specifically refer to the fact that the payments had to be certified by an accountant. The solicitors failed to follow your instructions and I consider that this may amount to inadequate professional service.

2. Draft Reply

You asked the solicitors to send a copy of the draft reply to the Claimant's Part 36 offer to you for approval, before sending it to CKFT. The draft reply was sent to you but only 10 minutes before it was sent to CKFT. Even then, it was sent to you by e-mail, and may not therefore have been checked by you within the 10 minutes before it was sent.

I would accept the solicitor's response to this complaint. In your e-mail sent at 12.26pm on 13 November you accepted the offer and you were aware of the 'tweaking' to be done. The solicitors then only received the final version at 3.32pm, and this was forwarded to you at 3.53pm. The solicitors sent the draft reply to you as soon as possible. They can not be held responsible for Counsel's delay in sending the reply to them.

It would have been preferable for the solicitors to have telephoned you to advise you that the e-mail had been sent, and asking you to check it. However, as we expect solicitors to provide a reasonable service, and not a perfect one, I do not consider that this would constitute inadequate professional service. In any event, you did check the e-mail, and if you were unhappy with its contents, you could have called the solicitors immediately raising your concerns.

For the reasons mentioned, I will not be able to investigate this complaint further.

3. Failure to Respond

You explained that the solicitors failed to respond to your telephone call on 12 November 2003 despite leaving a message. The solicitors have not responded to this complaint, and that may be an oversight by them.

Though you were very distressed at that period of time, I do not consider that a failure to respond to one telephone call would constitute inadequate professional service. In view of the amount of work done on your file, and the number of calls and letters that were returned, we can not conclude that the solicitors provided a poor service because of a failure to respond to one telephone call.

On 12 October 2003 you wrote to the solicitors asking for advice in relation to your Witness Statement. The solicitors have explained that their usual procedure is to obtain draft statements from clients, and then, at the time they are needed, the solicitors and or Counsel go through the statement with the client, and it is put in the correct format. As there had been an extension of time, there was no urgency in dealing with your witness statement. Though it would have been preferable for the solicitors to have advised you of this at that time, their failure to do so, would not constitute inadequate professional service.

4. Form N265

On this Form, the solicitors had entered you as the Claimant. You pointed this error out to the solicitors by letters dated 23 September, 29 September and 2 October 2003. However, as the solicitors failed to correct the error, you made the amendments yourself.

The solicitors accept that they made the error. However, they say that the error was not serious and did not prejudice your position. That may be the case, but I consider that as you raised this matter with the solicitors three times, they should reasonably have made the amendments, or alternatively, they should have advised you that the error was not serious and not worth worrying about.

I consider that the solicitor's failure to address your concerns about the error, may constitute inadequate professional service.

5. Incorrect Fax Number

You asked the solicitors not to send faxes to you at a specific number at work, and gave them a different work number which you believed to be more private. By mistake, the solicitors set faxes to the old number, on more than one occasion. Again, the solicitors state that this was a clerical error, and one that did not prejudice your position.

If the mistake had occurred once, I would not have considered it to amount to inadequate professional service. However, the mistake occurred more than once. It would be reasonable to expect that after the mistake first occurred, the solicitors would have been more careful, and I consider that this failure may amount to inadequate professional service.

6. Rule 15 Failure

Having considered the solicitor's response, I do not consider that there was a failure to adequately address your complaints. The solicitors responded to each of your letters and attempted to address your concerns. It later became clear that they would be unable to resolve the complaint through their own complaints handling procedures, and you referred the matter to this office.

The solicitors did not accept your complaints, and after the work I have done, they still do not accept that they provided a poor service. The solicitors didn't offer you a costs reduction or compensation to address your concerns because they did not accept your complaints. This would not amount to inadequate professional service.

Though I have identified issues of inadequate professional service in my letter, they are minor inadequacies. I am aware that you are looking to recover a large sum of compensation from the solicitors, you asked for our maximum award of £5,000. Though we are able to award £5,000, most awards fall well below this sum, as I have advised you in previous correspondence.

I am aware that you wish to make further comments, and I will be happy to consider your comments, and it may be that I alter the views I have reached so far. As it is, I consider that for the inadequacies I have identified, a reasonable sum of compensation would be approximately £150 - £200.

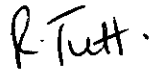
I enclose a copy of our Awards Data Scheme which provides examples of past cases and the sums of compensation awarded in each. You can compare your case to the examples provided to determine the sum of compensation you feel is appropriate in your case. I hope that you find this useful.

Please provide your comments in relation to this letter and my letter dated 3 August 2004 as soon as possible. Please also confirm whether you would be willing to settle your complaint for £150-£200, and I will then contact the solicitors.

If you have any queries in relation to my letter or if you wish to discuss your complaint further, you may contact me on the number provided below. I am in the office from 8am until 4pm, Monday to Friday, and will be pleased to assist you.

I look forward to hearing from you.

Yours sincerely



Rajdeep Tutt (Ms)
Caseworker
Client Relations Office

Direct Line: 01926 823112
Extension: 2513
Direct Fax: 01926 336584
Rajdeep.Tutt@LawSociety.Org.UK

Enc: Copy letter dated 25 August 2004 with enclosures
Awards Data Scheme

If I am unavailable when you call, please speak to Amundip Atwal, Customer Services Officer, on direct dial telephone number 01926 822059 who will be glad to assist in my absence.

****Please quote our above reference whenever contacting us****