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Article 19

PCLS Clinic Manual 6.18-Policy on Landlords

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PCLS CLINIC MANUAL 6.18—POLICY ON LANDLORDS©

The clinic does not act for landlords in landlord-tenant disputes. Landlords who meet the clinic financial criteria are nonetheless clients of the clinic who will be assisted in any other kind of problem and for whom adequate legal services from other sources will be obtained in connection with a dispute with a tenant.

The basis of the clinic policy on landlords is often misunderstood. It was explained fully at one time in a letter to Toronto City Council, dated 11 August 1975. The letter was written at the direction of the board of governors (as it then was) and reflects the board's position on the issue. The city had made a $10,200 grant to the clinic, however the grant was conditional on PCLS reversing its policy. The letter is reproduced below:

August 11, 1975

City Executive Committee
c/o Ms. B. Caplan
Second Floor
City Hall
Toronto, Ontario
M5H 2N2

Dear Sirs,

Parkdale Community Legal Services' Board of Governors at its meeting on Wednesday, August 5, 1975, considered City Council's decision to make the City's grant of $10,200 conditional on this office reversing its long standing policy of not acting for indigent landlords in landlord-tenant matters.

I am instructed by the Board to advise Council that the Board is not prepared to accept a conditional grant of this nature. It is, in the Board's unanimous view, intolerable in principle that a neighbourhood legal clinic should be dictated to by any funding source on any question concerning the clients for whom the office will or will not act.

The Board is not prepared to debate the policy with Council, but I have been instructed to explain the basis of the policy, since Council's act in imposing the condition seems to suggest that the reasons for the policy are not generally understood.

The office policy of not acting for landlords in a landlord-tenant matter is recognized by the Board to be a contentious issue. The Board itself does not have a unanimous view of the correctness of the policy. But it is a policy that was adopted by the Board including a majority of the seven community members on the Board, after a full debate of all of the issues involved and it represents a considered decision by this organization that it is necessary, in pursuit of the office objective of making legal services truly accessible, both in psychological terms and physical terms, to low-income citizens of Parkdale, that we are not seen to act for landlords against tenants, even where the landlord in question meets our financial criteria.

We are trying to make this office accessible to a part of the community who traditionally have never turned to lawyers for assistance and who traditionally have been targets of legal process and of lawyers, and rarely beneficiaries or clients. To have any hope of accomplishing that objective, the office believes that it must work at establishing and maintaining an image of a place that represents the interests of low-income people. Acting for landlords is destrucive of that effort.

In particular, it would seem self-evident that a neighbourhood legal office could not contemplate becoming involved in high-profile, court proceedings devoted to establishing, for example, a new interpretation of the *Landlord and Tenant Act* that would favour landlords at the expense of the interests of tenants. Having established in the *Booth* v. *Pajelle*[1] case that tenants may withhold rent for non-repair, would anyone seriously suggest that it would be right for us to now challenge that same proposition by taking a similar case to a higher court on behalf of an indigent landlord?

Can anyone doubt that had the office attracted the same media attention in respect of court proceedings on behalf of a landlord as it has in respect of court proceedings on behalf of tenants that the office image as a place for low-income people to get help would have been substantially damaged? And since we cannot realistically contemplate taking a leading case on behalf of a landlord, it is also the view of the lawyers in the office that it would be unethical from a professional point

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[1] See *Pajelle Investments Ltd.* v. *Booth* (1974), 3 O.R. (2d) 356 (Cty. Ct), rev'd *Re Pajelle Investments Ltd. And Booth* (1975), 6 O.R. (2d) 81 (Div. Ct); rehearing (1975), 7 O.R. (2d) 229 (Cty. Ct.).

of view to act for landlords at all since in any landlord's case we would have an unavoidable built-in reservation as to the extent to which we were able to pursue the case.

It is also a consideration relevant to this policy that because landlords tend to be permanently located in the community whereas tenants tend to be transient, if we were to act for indigent landlords in the Parkdale community as opponents of this policy have suggested, we would create over a period of time a situation where a large number of Parkdale tenants would have no access to the office for help with tenancy problems because their landlords had become clients of the office in respect of landlord and tenant matters. We could not, because of conflict considerations, act against a landlord in a landlord-tenant matter having once acted for him in a similar matter.

The law profession's tradition of being willing to act on either side of any issue is a tradition much-mentioned by opponents of this policy to which some reference needs to be made. That tradition has always been subject to the exception that any law office which wishes to develop or maintain a particular acceptability in the eyes of clients with special interests, is free to refuse to act for persons or organizations that are seen by those clients as antagonistic to those interests. Thus law firms that seek acceptability in the eyes of labour union clients refuse to act for management in management-labour matters or for individual employees in union matters; law firms interested in attracting the business of industrial relations managers refuse to act for unions; personal injury defence lawyers regularly retained by insurance companies do not, for the most part, act for plaintiffs in personal injury cases; law firms who represent major land developers and those with an apartment building owner as a major client are rarely if ever seen in court on behalf of a residential tenant.

It is our view that since the main objective of an office of this kind is to develop for the office in the eyes of the low-income citizens of a community that same particular acceptability, it is as necessary for such an office not to be seen acting for the traditional antagonists of the special interest low- income citizens as it is for a management labour law firm not to be seen acting for unions. Low-income citizens are, as a group, no more understanding or appreciative of the legal profession's tradition of acting for both sides than labour unions or industrial relation managers, or insurance company claims managers, or presidents of property management and development firms.

Where vital interests are concerned, the profession's tradition of being prepared to act on both sides of an issue has long since succumbed to the pressure from clients who are not prepared to entrust their affairs

to a lawyer who can be totally objective in matters affecting those interests. If that attitude prevails among sophisticated businessmen used to dealing with lawyers, how much more prevalent and important must it be in a community where the legacy of distrust, of lawyers of any kind as representatives always of landlords, collection agencies, government agencies, and the like, is so strong, and the level of sophistication in these matters so low?

To require a neighbourhood legal clinic in a low-income community to act for indigent landlords against tenants (and if landlords why not debtors?) is to seriously diminish that clinic's potential for acceptability in the low-income community, in the interest of insisting on an idealistic standard of objective professionalism for neighbourhood legal clinics that is not required or expected of lawyers acting for any other interests in this society.

By way of clarification, I would point out that the policy extends only to not acting for indigent landlords in landlord-tenant matters. Seventy-five per cent of the office's legal services are unrelated to landlord-tenant matters and, of course, indigent landlords are accepted without question as clients in respect of all services other than those dealing with landlord-tenant concerns. I would also point out that the Board of Governor's policy concerning landlords recognizes the need of indigent landlords to have access to legal services and the importance of that access to the continuing availability of rented accommodation in neighbourhood areas and requires the office to assist a landlord who meets the office financial criteria to find alternate free legal services.

We regret Council's decision in this matter and hope that it will not prove to be a permanent position. If Council were to adopt the view-point evident in their current decision as a permanent policy they would be foreclosing on city Assistance to community legal clinics generally. The Student Legal Aid Societies of the University of Toronto and at Osgoode Hall Law School which are running part-time clinics in the City both pursue the same policy of not acting for landlords and one can anticipate that the new clinics that will develop in other depressed areas of the City pursuant to the recommendations of the Osler Task Force will almost certainly adopt it as well.

Yours very truly,

S.R. Ellis
DIRECTOR