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IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

[2021] EWHC 1254 (Admin)



No. CO/872/2021

Royal Courts of Justice

Wednesday, 21 April 2021

Before:

HER HONOUR JUDGE WALDEN-SMITH
(Sitting as a Judge of the High Court)

B E T W E E N :

NURSING AND MIDWIFERY COUNCIL

Applicant

- and -

TOMY

Respondent

MR G. HUGH-JONES QC (instructed by the Nursing and Midwifery Council) appeared on behalf of the Applicant.

THE RESPONDENT did not appear and was not represented.

J U D G M E N T

THE JUDGE:

- 1 This is an application made pursuant to the provisions of Art.31(8) of the Nursing and Midwifery Order 2001 for a further extension of six months, to run from 26 April 2021, of an interim order first made by the investigating panel of the Nursing and Midwifery Council pursuant to the provisions of Art.31(2). That order was made on 27 March 2019 for a period of 18 months. The interim order has been extended on one occasion, on 24 September 2020, to expire on 25 April 2021. There has been service of the documentation before this court upon the respondent and a certificate of service has been provided to the court. There has been no response from the respondent, and she does not appear and is not represented today. I am satisfied that she has been properly served and was aware of this hearing.
- 2 I have had the benefit of reading the witness statement of Mark Austin, a case co-ordinator in the professional regulation directorate of the Nursing and Midwifery Council. His witness statement is dated 24 February 2021, and he has exhibited thereto the documentation which I have also seen.
- 3 The respondent attended the first review hearing on 4 September 2019. At that time, she was represented by Thompsons Solicitors who were instructed through her union, UNISON. She did not attend the other review hearings and her solicitors have been without instructions, and there has been no response to the case management form with respect to the substantive hearing.
- 4 Briefly stated, the factual background to this matter is that a referral was made to the Nursing and Midwifery Council by the University Hospitals NHS Foundation Trust on 10 March 2019, the respondent having been dismissed following a disciplinary hearing on 8 February 2019. That hearing had been with respect to concerns that had been raised when the respondent had failed to administer heparin when on the acute admissions ward and had also failed to record that the heparin had not been administered. There were further concerns raised that the respondent was not competent in various matters nor was able to provide adequate care. As a consequence of the various concerns an informal action plan was considered but, given the lack of engagement from the respondent with her mentors, that action plan was not put in place.
- 5 Further concerns were raised in December 2017, and in the period March to April 2018, again with respect to failure to record accurately with respect to administered medication. On 11 April 2018 the respondent was suspended from work and then redeployed in a stroke ward in a supervisory capacity, but further concerns were then raised in July of 2018 with respect to aspects of nursing care, including communication and signing for medication that had not been administered.
- 6 The respondent appealed her suspension and dismissal, but the decision to dismiss was upheld on 5 July 2019. The Nursing and Midwifery Council investigated the various concerns, and the case examiners found that there was a case to answer with respect to regulatory concerns, and therefore referred the matter to the Fitness to Practise Committee.
- 7 There was to be a hearing in June of 2020 but, as a consequence of the COVID pandemic, that hearing, which had a time estimate of seven days, was postponed. I understand that the hearing is now due to take place on dates from mid to late May of this year.
- 8 The interim order was imposed because it was necessary for public protection or otherwise was in the public interest, as the panel had concluded there was a real risk of serious harm to

patients and a risk of repetition if the respondent were to work without restrictions. A number of conditions of practice were imposed upon the respondent's registration that were for the purpose of increasing supervision, and in order to limit her to one employer so as to address concerns. There has been proper review of that interim order, the most recent one being on 30 December 2020. The extension of the interim order was in order to allow further time for the substantive hearing. Now that the hearing is listed to take place in May, in Cardiff, the extension is necessary to include the hearing date.

- 9 There has, as experience tells us, been difficulties with hearings taking place as they are due to take place – partly because of backlog of hearings, but also because of difficulties that can arise through social distancing and other COVID secure measures. In the circumstances, it seems to me eminently sensible that, while this matter must be concluded as soon is reasonably practicable, a further extension of six months will give sufficient time for this hearing to conclude, and so I will give that extension of six months as is sought.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.