OPAAC ADJ #26-002

CONSTABLE CHRIS HANSSON
Appellant

And

DURHAM REGIONAL POLICE SERVICE
Respondent

Adjudicators:
Colin Osterberg, Laura Hodgson, Ian Anderson

Appearances:
A. McKay, for the appellant
A. Sinclair, for the respondent

Heard:
October 1, 2025

Date of decision:
February 2, 2026

Length of decision: 14 pp.

Statutory citations:
Police Services Act, R.S.O. 1990, c. P. 15 (repealed), ss. 76, 80(1)(a), 80(2), 85(1)(c), 87(8)(a); O. Reg. 268/10 (repealed), s. 2(1)(b)(ii)
Community Safety and Policing Act, 2019 S.O. 2019, c. 1, Sched. 1, s. 216(4)

INSUBORDINATION - Components - Lawful order - Appeal from misconduct decision of hearing officer - Appellant charged with insubordination, contrary to s. 2(1)(b)(ii) of O. Reg. 268/10, after refusing to answer question during compelled interview - Hearing officer found appellant guilty of insubordination for refusing to answer question relating to allegation of discreditable conduct - Whether hearing officer erred in failing to consider s. 80(2) of *Police Services Act* - Hearing officer did not misapply legal test for insubordination - Order to answer question relating to possible misconduct was a lawful order - No reviewable errors in decision of hearing officer - Appeal dismissed.

HEARING OFFICERS - Decision of hearing officer - Standard of review - Appeal from misconduct decision of hearing officer - Whether hearing officer erred in law by failing to consider s. 80(2) of *Police Services Act* - Whether hearing officer unreasonably applied wrong legal test and denied appellant procedural fairness by curtailing scope of cross-examination of prosecution witness - Standard of reasonableness applied to questions of fact and questions of mixed fact and law - Questions of law reviewable on standard of correctness - Decision of hearing officer reasonable and contained no reviewable errors - Appeal dismissed.

HEARING OFFICERS - Reviewable errors - Appeal from misconduct decision - Hearing officer correctly stated test for finding of insubordination - Hearing officer did not err in finding order to answer question was a lawful order - Hearing officer's analysis of s. 80(2) of *Police Services Act* was correct and application to facts was reasonable - No error in hearing officer's decision to limit cross-examination on an issue that was not before him - Appeal dismissed.

Summary of Reasons for Decision

In a decision issued on June 12, 2024 the hearing officer found Cst. Hansson guilty of insubordination, contrary to s. 80(1)(a) of the *Police Services Act* and contrary to s. 2(1)(b)(ii) of the Code of Conduct, O. Reg. 268/10. In his November 19, 2024 decision on penalty, the hearing officer ordered that the appellant be demoted from first-class constable to second-class constable for a period of three months. Constable Hansson appealed the misconduct decision pursuant to s. 216(4) of the *Community Safety and Policing Act.*

The appellant was charged with insubordination after he refused to answer a question during a compelled interview with the Durham Regional Police Service Professional Standards Unit. The interview related to a complaint by the chief of the DRPS that the appellant had engaged in discreditable conduct, while off-duty, by making a monetary donation to the "Freedom Convoy", a protest held in Ottawa during the COVID-19 pandemic against government pandemic mandates. The PSU interviewer asked the appellant whether he had made a donation.

Constable Hansson appealed the misconduct decision of the hearing officer. He asserted that the hearing officer: 1) erred in law by failing to consider s. 80(2) of the *PSA* in his analysis of whether the appellant committed misconduct while in an off-duty capacity; and 2) reached a decision that was unreasonable insofar as he: omitted consideration of s. 80(2); found the appellant guilty on the basis of insufficient evidence; and limited the appellant's ability to cross-examine the only prosecution witness, which curtailed the appellant's ability to make full answer and defense.

Held, appeal dismissed.

The standard of review applicable to the decision of a hearing officer was reasonableness on questions of fact, correctness on questions of law, and, absent an extricable question of law. reasonableness on questions of mixed fact and law.

In this case, the allegation of discreditable conduct was not before the hearing officer. Instead, the appellant was charged with insubordination after he refused to answer a question concerning conduct which, if established, could constitute discreditable conduct. The task of the hearing officer was thus to determine whether the allegation of insubordination was substantiated. In answering that question, the hearing officer correctly stated the four-part test for insubordination, as articulated in the caselaw governing police officer misconduct, viz. a) whether an order was given; b) whether the order was lawful; c) whether the officer disobeyed or neglected to carry out the order; and d) whether the officer had a lawful excuse for disobeying the order.

The appellant argued that the hearing officer erred at the second stage of this test, i.e. in his assessment of whether the order given to the appellant – to answer the question of whether he made a donation to the Freedom Convoy – was a lawful order. In particular, the appellant argued that the hearing officer erred in his analysis of whether he committed discreditable conduct while in an off-duty capacity, by misapplying or overlooking s. 80(2) of the *PSA.* Subsection 80(2) stated that a police officer would not be found guilty of misconduct if there were "no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force". The appellant contended that in order to find him guilty of insubordination, the hearing officer first had to find on clear and convincing evidence that the making of a donation would affect the reputation of the police force, or that there was a connection between making the donation and the occupational requirements of a police officer. The appellant argued that the hearing officer did not address this issue; instead, he merely determined that making the donation "could possibly" affect the service's reputation.

The respondent argued that in the context of an investigation under s. 76 of the *PSA,* an order to answer questions was lawful. Section 76 empowered the chief to investigate the off-duty conduct of police officers, and officers had a duty to answer questions regarding their off-duty conduct when ordered to do so by a superior officer.

In his analysis of the lawfulness of the order, the hearing officer found it was not necessary to demonstrate that the allegation of discreditable conduct could be proven, only that the allegation was so reasonable that it warranted a response to the investigating officer's question. This analytical approach was reasonable and correct. The appellant's interpretation of s. 80(2), on the other hand, was not reasonable, because it conflated two separate issues: the service's authority to investigate alleged misconduct – in this case, discreditable conduct – and the prosecution's requirement to prove that allegation with clear and convincing evidence, if the charge proceeded to a disciplinary hearing. On the appellant's line of reasoning, an officer could not be ordered to answer questions about alleged misconduct until that misconduct had already been established. This was clearly not what the exemption in s. 80(2) contemplated, and there was no authority to suggest otherwise. Before making a finding of insubordination, the hearing officer was not required to find, on clear and convincing evidence, that making a donation would likely affect the reputation of the force, or that there was a likely connection between the donation and the occupational requirements of a police officer.

In this case, the appellant refused to answer a question at a compelled interview as part of an investigation into potential misconduct. The hearing officer was correct, therefore, when he determined that the order was lawful. He recognized that during an investigation into alleged discreditable conduct it was not necessary to first prove the offence had been committed before ordering the appellant to answer questions related to that investigation.

Thus, the hearing officer's determination regarding the lawfulness of the order was reasonable, and he did not err in his analysis or application of s. 80(2).

Finally, the appellant argued that the hearing officer breached his duty of procedural fairness by not permitting him to cross-examine the prosecution's witness on the issue of whether a donation

to the Freedom Convoy was likely to result in damage to the reputation of the force, *per* s. 80(2). The hearing officer did not err in his decision to limit cross-examination on an issue – the allegation of discreditable conduct – that was not before him.

Accordingly, the misconduct decision of the hearing officer was confirmed.

Authorities cited

Ottawa Police Service v. Diafwila, 2016 ONCA 627
Jeremiah Johnson v. Durham Regional Police Service, 2020 ONCPC 3
Dunsmuir v. New Brunswick, 2008 SCC 9
Imperial Oil Ltd. v. Haseeb, 2023 ONCA 364
Orr v. York Regional Police, 2001 CanLII 62683
Re Metropolitan Toronto Board of Commissioners of Police and Metropolitan Toronto Police Assn., 1974 CanLII 702 (Div. Ct.)
Dave Deboer and Ontario Provincial Police, 2017 CanLII 40693 (ONCPC)
Mulligan v. Ontario Civilian Police Commission, 2020 ONSC (Div. Ct.)
Briscoe v. Windsor Police Service, 2024 ONCPC (CanLII)