

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Knuth v Queensland Building and Construction Commission* [2022] QCAT 172

PARTIES: **JEFFREY KNUTH T/AS ROOFGUARD ROOF PAINTING**
(applicant)

v

QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION
(respondent)

APPLICATION NO/S: GAR368-19

MATTER TYPE: General administrative review matters

DELIVERED ON: 9 May 2022

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: Member Deane

ORDERS: **The Application for leave to file the Amended Application to review a decision dated 3 March 2020 is refused.**

CATCHWORDS: PROCEDURE – STATE AND TERRITORY COURTS: JURISDICTION, POWERS AND GENERALLY – INHERENT AND GENERAL STATUTORY POWERS – GENERALLY – whether leave to amend should be granted to add review of earlier decisions – whether Tribunal has equitable jurisdiction to permit review

Human Rights Act 2019 (Qld), s 31, s 48, s 108
Queensland Building and Construction Commission Act 1991 (Qld), s 86, s 86A, s 86B, s 86C, s 86D, s 86E, s 86F, s 87
Queensland Civil and Administrative Tribunal Act 2009 (Qld), s 3, s 4, s 6, s 9, s 17, s 18, s 19, s 64, s 164
Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175
Batwing Resorts Pty Ltd v Body Corporate for Liberty on Tedder CTS 27241 [2011] QCAT 277
Body Corporate for Alto Gladstone CTS 45291 v Queensland Building and Construction Commission [2020] QCATA 6
Dream Suburbs Pty Ltd v Body Corporate for Persse Palace & Ors [2019] QCAT 373

Gorton v The Commonwealth [1992] 2 Qd R 603
Haimes v Queensland Building and Construction Commission [2018] QCAT 361
Hawkins v Clayton (1988) 164 CLR 539
HK Developments Pty Ltd v Doeuk [2013] QCAT 504
Owen v Menzies [2013] 2 Qd R 327
Peterson Management Services Pty Ltd (ACN 094234474) as trustee for the Peterson Family Trust v Body Corporate for the Rocks Resort Community Title Scheme 9435 (No 1) [2014] QCAT 541
Queensland Building and Construction Commission v Watkins [2014] QCA 172
Queensland Building and Construction Commission v Whalley [2018] QCATA 38
Wyatt & Anor v Queensland Building and Construction Commission [2018] 396
Salam v Henley Properties (Qld) Pty Ltd [2015] QCATA 118
Tanna v Queensland Building and Construction Commission [2021] QCAT 170
Vanden Hoven & Anor v Queensland Building and Construction Commission [2018] QCAT 456

APPEARANCES & REPRESENTATION:

Applicant: E Sarinas, Sarinas Legal
 Respondent: G Phillips, in house lawyer

This matter was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) (QCAT Act)

REASONS FOR DECISION

- [1] Mr Knuth contracted to perform roof painting and certain repair works for \$12,800 for a homeowner, who subsequently made a complaint to the Queensland Building and Construction Commission (QBCC). Prior to the works being completed there was a major weather event in the locality. The homeowner claimed damage was caused by water leaking through the ceiling. The QBCC conducted an early dispute resolution process to seek to resolve the complaint by agreement between the parties. Mr Knuth agreed to perform some work. He says there were difficulties with the homeowner permitting access and further wet weather which created work health and safety issues when access was being arranged.
- [2] Subsequently the QBCC decided that Mr Knuth's work was incomplete and defective and issued a direction to rectify dated 23 April 2019 requiring the work to be rectified by 26 May 2019 (DTR Decision). Mr Knuth contends he received the DTR Decision on 23 April 2019. He says, other than a \$1280 deposit, he has not been paid any amount for the work performed and that the consequential damage claimed by the homeowner was not caused by his work.

- [3] Mr Knuth says he attended the premises and performed some rectification work he considered was required by his scope of work and disputed the remainder in writing to the QBCC on 3 May 2019. He says that email ought to be regarded as an application for an internal review of the DTR Decision but that it was ignored. The email did not expressly refer to 'internal review'. He says the steps he needed to take to commence an internal review were not clearly set out in the DTR Decision and he sent his email to the author of the DTR Decision.
- [4] On 17 June 2019 the QBCC decided that the building work undertaken following its DTR Decision was not satisfactory (Work Not Fixed or Completed (WNF) Decision). Mr Knuth contends he received the WNF Decision on 17 June 2019. He says the steps he needed to take to commence an internal review were not clearly set out in the WNF Decision.
- [5] On 28 June 2019 the QBCC issued a scope of work to Mr Knuth in relation to the homeowner's claim against the statutory insurance scheme (SOW Decision). Mr Knuth contends he received the SOW Decision on 28 June 2019. He says the steps he needed to take to commence an internal review were not clearly set out in the SOW Decision. Following a telephone discussion with the SOW Decisionmaker, she sent him an email with information about the processes available to dispute a decision made by the QBCC. Mr Knuth says if such detailed information had been provided earlier, he would have complied with it.
- [6] On 9 July 2019 Mr Knuth applied for an internal review. He specifically refers to the WNF Decision and the DTR Decision. On 12 July 2019 a QBCC officer, Ms Tyler, emailed Mr Knuth to advise the time for requesting an internal review of the DTR Decision had expired on 21 May 2019, that she could not go back to review that decision, that QBCC had made two other decisions and made comments on whether and the nature of any review of those decisions available. She asked for clarification as to which decision was the subject of the review application. Mr Knuth says that Ms Tyler's email misled him about his rights.¹ On 16 July 2019 Mr Knuth clarified that he wanted to 'have a Rectification decision from QBCC Inspector Kevin Cameron reviewed'.² The Application for leave to amend contends that Mr Knuth sought internal review of the DTR, WNF and SOW Decisions.
- [7] On 5 August 2019 the WNF Decision was confirmed (Internal Review Decision). Mr Knuth contends he received the Internal Review Decision on 5 August 2019.
- [8] The QBCC decided to accept the homeowner's claim under the statutory insurance scheme (SIS) and Mr Knuth received a debt claim dated 27 August 2019 for the sum of \$21,419.50. A decision in respect of debt recovery is not a reviewable decision.³
- [9] Mr Knuth applied to the Tribunal for external review of the Internal Review Decision (Application).⁴
- [10] An issue arose as to whether the Application was filed within time because it was date stamped as filed on 13 September 2019 when received by the Tribunal in Brisbane. The QBCC says it was required to be filed by 2 September 2019. The

¹ Affidavit Jeffrey Knuth filed 10 March 2020, attachment JK1, p 253.

² Ibid, p 256.

³ *Queensland Building and Construction Commission Act 1991*(Qld), s 86(1) (QBCC Act).

⁴ Application to review a decision, Part B specifically references the decision of 5 August 2019.

Application was dated 29 August 2019. Mr Knuth says, and I accept, it was filed on that date in the Townsville court registry.

- [11] The QBCC also sought clarification as to the relevant decision the subject of the Application because various QBCC decisions are referenced in the Application.
- [12] Mr Knuth filed an Application to extend or shorten a time limit or for waiver of compliance with procedural requirement and attached an Amended Application.⁵
- [13] At a Compulsory Conference the Tribunal made directions for submissions to be filed and served in respect of Mr Knuth's application to file an Amended Application and for that application to be decided on the papers.⁶ Submissions have been received.⁷ I now proceed to decide the application to file an amended application for review. The delay in finalising this application is extremely regrettable and relates to resourcing issues.

Should Mr Knuth be given leave to file the Amended Application to review a decision filed 3 March 2020?

- [14] I refuse leave to file the Amended Application to review a decision filed 3 March 2020 (Amended Application).
- [15] I am not satisfied that the Amended Application discloses an arguable claim within the Tribunal's jurisdiction to review the DTR Decision, WNF Decision or the SOW Decision.
- [16] The Tribunal has power to require an application to be amended.⁸ The Tribunal has previously accepted that the factors set out in *Aon*⁹ are relevant to the exercise of the discretion to allow an amendment.¹⁰ This Application to amend has been made at an early stage of the proceedings so it is not necessary to address many of the factors set out in *Aon*.
- [17] The primary question is whether the amendments in the Amended Application disclose an arguable claim within the Tribunal's jurisdiction.
- [18] In addition to the Internal Review Decision, which confirmed the WNF Decision and was the subject of the initial Application, Mr Knuth's Amended Application seeks review of the:
 - (a) DTR Decision;
 - (b) WNF Decision; and
 - (c) SOW Decision.

⁵ Dated 28 February 2020, filed Townsville 3 March 2020, received Brisbane 9 March 2020.

⁶ 30 April 2020.

⁷ Submissions filed by Mr Knuth dated and filed by email 10 June 2020 and submissions in reply dated and filed by email 20 July 2020. Submissions filed by QBCC dated and filed by email 10 July 2020.

⁸ QCAT Act, s 64.

⁹ *Aon Risk Services Australia Ltd v Australian National University* (2009) 239 CLR 175.

¹⁰ *Salam v Henley Properties (Qld) Pty Ltd* [2015] QCATA 118; *Peterson Management Services Pty Ltd (ACN 094234474) as trustee for the Peterson Family Trust v Body Corporate for the Rocks Resort Community Title Scheme 9435 (No 1)* [2014] QCAT 541 at [21]; *HK Developments Pty Ltd v Doeuk* [2013] QCAT 504.

- [19] The Tribunal is required to find its power to hear and determine disputes in either the QCAT Act or an enabling Act.¹¹ An enabling Act confers review jurisdiction if it confers the power to make an application or referral to the tribunal in relation to a matter under the enabling Act.¹² The tribunal may do all things necessary or convenient for exercising its jurisdiction.¹³
- [20] The Tribunal is an inferior court of the State of Queensland and has no inherent jurisdiction unlike superior courts.¹⁴ As observed by the Appeal Tribunal:¹⁵
- It has no inherent power to make decisions appropriate to redress perceived or discovered wrongs in a matter before it as might be presumed to be the case in a matter before the Supreme Court.
- [21] Section 17 of the QCAT Act provides:
- (1) The Tribunal's review jurisdiction is the jurisdiction conferred on the tribunal by an enabling Act to review a decision made or taken to have been made by another entity under that Act.
- [22] Section 18 of the QCAT Act provides:
- (1) The Tribunal may exercise its review jurisdiction if a person has, under this Act, applied to the tribunal to exercise its review jurisdiction for a reviewable decision.
- [23] Section 19 of the QCAT Act provides:
- In exercising its review jurisdiction, the tribunal—
- (a) must decide the review in accordance with this Act and the enabling Act under which the reviewable decision being reviewed was made; and
 - (b) may perform the functions conferred on the tribunal by this Act or the enabling Act under which the reviewable decision being reviewed was made; and
 - (c) has all the functions of the decision-maker for the reviewable decision being reviewed.
- [24] The relevant enabling Act is the *Queensland Building and Construction Commission Act 1991* (Qld) (QBCC Act).¹⁶
- [25] A person affected by a reviewable decision of the QBCC may apply, as provided under the QCAT Act, to the tribunal for a review of the decision.¹⁷
- [26] The QBCC says leave to amend should be refused as the Tribunal has no jurisdiction to review the DTR Decision, the WNF Decision and SOW Decision.
- [27] The QBCC also says that leave to amend should not be given as the Appeal Tribunal has previously found that each reviewable decision is required to be the subject of a

¹¹ QCAT Act, s 9(1).

¹² Ibid, s 9(3).

¹³ Ibid, s 9(4).

¹⁴ Ibid, s164; *Owen v Menzies* [2013] 2 Qd R 327; *Queensland Building and Construction Commission v Whalley* [2018] QCATA 38, [37] (*Whalley*).

¹⁵ *Whalley*, [37].

¹⁶ QCAT Act, s 6.

¹⁷ QBCC Act, s 87.

separate review application with separate applications for extensions of time.¹⁸ Mr Knuth says *Alto* is wrong.

- [28] The QBCC says even if *Alto* is wrong Mr Knuth is out of time to commence the review for all decisions except the Internal Review Decision and that the DTR Decision and SOW Decision are no longer reviewable by the Tribunal.
- [29] The QBCC no longer contends that the Application was commenced out of time in respect of the Internal Review Decision.
- [30] I find that the Application was commenced within time in respect of the Internal Review Decision.
- [31] I consider the Tribunal's jurisdiction in respect of each of the additional Decisions sought to be reviewed in the Amended Application.

Does the Tribunal have jurisdiction to entertain a review of the DTR Decision?

- [32] I find the Tribunal does not have jurisdiction to entertain a review of the DTR Decision.
- [33] A decision to give a direction to rectify or remedy or not to give the direction is a "reviewable decision".¹⁹
- [34] The QBCC says, and I accept, that Mr Knuth is out of time to commence the review and that the DTR Decision is no longer reviewable by the Tribunal as the QBCC has served a notice advising the SIS claim has been approved in relation to the work subject of the DTR.²⁰
- [35] Mr Knuth says he is not out of time or if he is then it is because the QBCC concealed his cause of action and prevented him from pursuing his rights within the required timeframes. He says that the QBCC ignored his internal review application of the DTR Decision and that it should have made a decision pursuant to section 86C which would have resulted in the giving of a review notice under section 86D. Further he says that as no review notice was given, in response to his application for internal review, time has not commenced for an external review.²¹
- [36] I accept that a person such as Mr Knuth, who is given, or is entitled to be given, notice of a reviewable decision may apply to the internal reviewer to have the decision reviewed.²²
- [37] Mr Knuth contends that his email of 3 May 2019 constituted an application for internal review.
- [38] Section 86B of the QBCC Act provides:

An internal review application must—

(a) be made within the following period—

¹⁸ *Body Corporate for Alto Gladstone CTS 45291 v Queensland Building and Construction Commission* [2020] QCATA 6 (Alto).

¹⁹ QBCC Act, s 86(1)(e).

²⁰ Ibid, s 86F(1)(b)(ii)(B).

²¹ Ibid, s 86D(2)(c).

²² Ibid, s 86A.

- (i) 28 days after the applicant is given notice of the reviewable decision to which the application relates or otherwise becomes aware of the decision; or
 - (ii) a longer period allowed by the internal reviewer, whether before or after the end of the 28-day period mentioned in subparagraph (i); and
 - (b) be lodged at an office of the commission.
- [39] Section 86C of the QBCC Act says if the internal reviewer does not decide the application within 28 days the internal reviewer is taken to have made an internal review decision at the end of the period that is the same as the reviewable decision. This is a deemed internal review decision.
- [40] Section 86D of the QBCC Act requires the giving of a review notice of the decision and provides that the notice must state that a person may, if dissatisfied with the internal review decision, within 28 days after the person is given the notice apply to the Tribunal for external review.²³
- [41] Mr Knuth says this notice was not given and the time limit has not commenced.
- [42] Even if Mr Knuth's email constituted an application for internal review, such an internal review of the DTR Decision would give rise to a reviewable decision upon the issuing of the review notice but did not preclude Mr Knuth from seeking external review of the DTR Decision.²⁴
- [43] Section 86A of the QBCC Act makes it clear that a person who has applied for an internal review is not precluded from applying to the Tribunal for an external review prior to it being decided. If an external review is commenced, then the internal review lapses.²⁵ The right to apply for external review of the DTR Decision is not dependent upon applying for internal review.
- [44] Section 86F(1)(b) sets out decisions that are not reviewable including:
- (b) a decision to give a person a direction to rectify or remedy, and any finding by the commission in arriving at the decision if –
 - (i) 28 days have elapsed from the date the direction was served on a person and the person has not, within that time, applied to the tribunal for a review of the decision; and
 - (ii) the commission has – ...
 - (B) served a notice on the person advising a claim under the statutory insurance scheme has been approved...
- [45] Section 86F(1)(b) specifies the time within which an application for review is required to be made to the Tribunal. An application for internal review brought within time does not defer the time for external review of the initial reviewable decision.
- [46] The initial Application to review was filed on 29 August 2019 and the application for leave to amend was filed 3 March 2020. The undisputed evidence is that the QBCC served a claim under the SIS on Mr Knuth on 27 August 2019.

²³ Ibid, 86D(2)(c).

²⁴ Ibid, s 86.

²⁵ Ibid, s 86A(2),(3).

[47] The Court of Appeal and the Tribunal have previously found that the Tribunal has no power to grant an extension of time to commence review proceedings because the time limit in section 86F of the QBCC Act (or the predecessor provision) is substantive not procedural.²⁶

[48] His Honour Douglas J noted:

The language of the section, in prescribing that QCAT must not review decisions of the nature described in the section if 28 days have elapsed since the relevant decision or direction, makes it correct to conclude that it is a mandatory provision having substantive rather than procedural effect. The compelling inference from the structure of the Act is that applications for review of such matters should be made expeditiously to avoid further delay in the completion or execution of rectification work.²⁷

[49] No application for external review of the DTR Decision was commenced prior to 27 August 2019 when approval of the SIS claim was notified and more than 28 days had elapsed.

Does the Tribunal's equitable jurisdiction afford relief?

[50] I find that the Tribunal's limited equitable jurisdiction does not enliven the Tribunal's review jurisdiction.

[51] Mr Knuth says he is not out of time or if he is then it is because the QBCC concealed his cause of action and prevented him from pursuing his rights within the required timeframes including because it breached its obligations as a model litigant. He says that the QBCC ought not be allowed to rely upon its own misconduct to deny him the ability to have the series of decisions externally reviewed by the Tribunal. He relies upon the Tribunal's equitable jurisdiction and section 9(4) of the QCAT Act.

[52] He points to *Hawkins v Clayton*²⁸ and to *Gorton v The Commonwealth*²⁹ as authority for the proposition that there is long established equitable jurisdiction to grant relief in the case of concealment of a cause of action because it would be unconscionable to allow a respondent to rely upon a statute of limitation. *Hawkins* was a case involving the Supreme Court of New South Wales and *Gorton* was a case involving the Supreme Court of Queensland. They did not involve an inferior court such as the Tribunal.

[53] I accept that the Tribunal has been vested with some powers to grant what has been traditionally equitable relief as recognised by the then President in *Batwing Resorts Pty Ltd v Body Corporate for Liberty on Tedder CTS 27241*.³⁰ However, the Tribunal's equitable jurisdiction is limited.

[54] The Tribunal has further considered the nature of section 9(4) of the QCAT Act in *Dream Suburbs Pty Ltd v Body Corporate for Persse Palace & Ors* and found that it

²⁶ *Queensland Building and Construction Commission v Watkins* [2014] QCA 172; *Haines v Queensland Building and Construction Commission* [2018] QCAT 361; *Wyatt & Anor v Queensland Building and Construction Commission* [2018] 396.

²⁷ *Queensland Building and Construction Commission v Watkins* [2014] QCA 172, [16].

²⁸ (1988) 164 CLR 539.

²⁹ [1992] 2 Qd R 603.

³⁰ [2011] QCAT 27.

cannot be relied upon to extend jurisdiction to claims in respect of which the Tribunal does not otherwise have jurisdiction.³¹

- [55] Mr Knuth says that the QBCC should not be entitled to rely upon the usual time limits and other limitations where Mr Knuth's failure to invoke his rights was due to the QBCC's wrong-doing in particular its failure to consider his 3 May 2019 Internal Review Application. Even if the QBCC agreed with Mr Knuth, that it would not seek to rely upon the time limits in the QBCC Act, it is still necessary for the Tribunal to be satisfied that it has jurisdiction conferred by the QCAT Act or an enabling Act.
- [56] The Tribunal in *Vanden Hoven & Anor v Queensland Building and Construction Commission*³² found that although the parties consented that did not confer power on the Tribunal to amend in the absence of power discernible from the QCAT Act.
- [57] I am not satisfied that there is a clearly evident equitable power in the QCAT Act to provide relief from the clear substantive jurisdictional limitations set out in the QBCC Act even if misconduct by the QBCC is established.
- [58] Section 9(4) 'confers power to grant relief in proceedings brought within jurisdiction'³³ I am not satisfied that it is arguable that section 9(4) confers jurisdiction where the enabling Act expressly excludes jurisdiction.
- [59] The Tribunal considered similar submissions in *Wyatt & Anor v Queensland Building and Construction Commission*.³⁴
- [38]the Wyatts' remaining submissions, that the QBCC did not advise them of the limitation and encouraged the continuation of negotiations, and that the shortcomings of the amended scope of works decision was not apparent until after the Envate quote was produced, do not, even if accepted, assist them.
- [39] Those considerations well may be relevant to the Tribunal in deciding whether to exercise its discretion to extend time pursuant to s 61 of the QCAT Act, but that section does not apply here. The Tribunal has no discretion to extend time or forgive the failure to lodge within time.
- [60] I agree that the matters raised by Mr Knuth may be relevant to the exercise of a discretion to extend time, but the Tribunal has no discretion.

Does the Tribunal have jurisdiction to entertain a review of the WNF Decision?

- [61] I find that the Tribunal does not have jurisdiction to entertain a review of the WNF Decision as it was the subject of an internal review and the Internal Review Decision replaced it.
- [62] A decision that building work undertaken at the direction of the commission is or is not of a satisfactory standard is a "reviewable decision" for the purposes of an internal review³⁵ but is not a reviewable decision for the purposes of external review if it was the subject of internal review.³⁶

³¹ [2019] QCAT 373, [78]-[81].

³² [2018] QCAT 456, [65].

³³ [2019] QCAT 373, [78].

³⁴ [2018] 396, [38]-[39].

³⁵ QBCC Act, s86(1)(f).

[63] Upon an application for internal review, the internal reviewer makes a new decision as if the decision the subject of the application had not been made.³⁷

[64] The Internal Review Decision has replaced the WNF Decision. The WNF Decision is no longer a reviewable decision. The Internal Review Decision is a reviewable decision for the purposes of external review.³⁸

Does the Tribunal have jurisdiction to entertain a review of the SOW Decision?

[65] I find that the Tribunal does not have jurisdiction to entertain a review of the SOW Decision.

[66] A decision about the scope of works to be undertaken under the statutory insurance scheme to rectify or complete tribunal work is a “reviewable decision”.³⁹

[67] However, section 86F(1)(c) sets out decisions that are not reviewable:

- (c) a decision about the scope of works to be undertaken under the statutory insurance scheme to rectify or complete tribunal work if 28 days have elapsed since the decision was served on the building contractor and the contractor has not, within that time, applied to the tribunal for a review of the decision.

[68] The undisputed evidence is that no application for external review of the SOW Decision was commenced within 28 days of Mr Knuth receiving it on 28 June 2019.

[69] For the reasons set out above, the Tribunal has no power to grant an extension of time to commence review proceedings or waive non-compliance because the time limit in section 86F of the QBCC Act is substantive not procedural.⁴⁰

Does the Tribunal have jurisdiction to entertain a review of more than one reviewable decision?

[70] In view of my findings, it is not necessary to consider whether the Tribunal may entertain a review of more than one reviewable decision.

[71] I note that:

- (a) the Tribunal has previously accepted the Appeal Tribunal’s decision in *Alto*;⁴¹
- (b) the objects of the QCAT Act include to enhance the quality and consistency of tribunal decisions;⁴² and
- (c) to achieve the objects of the QCAT Act the Tribunal must ensure like cases are treated alike.⁴³

³⁶ Ibid, s 86E(a).

³⁷ Ibid, s 86C(1).

³⁸ QBCC Act, s 86E(b).

³⁹ Ibid, s 86(1)(g).

⁴⁰ *Queensland Building and Construction Commission v Watkins* [2014] QCA 172; *Haines v Queensland Building and Construction Commission* [2018] QCAT 361; *Wyatt & Anor v Queensland Building and Construction Commission* [2018] 396.

⁴¹ *Tanna v Queensland Building and Construction Commission* [2021] QCAT 170, [5].

⁴² QCAT Act, s 3(c).

⁴³ Ibid, s 4(d).

Does the Human Rights Act 2019 (Qld) ('HR Act') apply?

- [72] I find that the HR Act does not apply.
- [73] The HR Act commenced on 1 January 2020. The transitional provisions provide that the HR Act does not affect proceedings commenced before the commencement.⁴⁴ Neither party made any submissions about the HR Act. These proceedings were commenced before the HR Act commenced.
- [74] If I am wrong and the HR Act applied, in deciding this application I have interpreted statutory provisions, to the extent possible that is consistent with their purpose, in a way that is compatible with human rights.⁴⁵ I accept that this application potentially impacts Mr Knuth's rights to a fair hearing and I considered them in coming to my decision as to the Tribunal's jurisdiction by considering submissions filed by each party.⁴⁶

⁴⁴ *Human Rights Act 2019 (Qld)*, s 108.

⁴⁵ *Ibid*, s 48.

⁴⁶ *Ibid*, s 31.