

APPEAL

UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL  
TRIBUNAL APPEALS BOARD  
APPEAL OF Mr. G.

Trial: 1987/88-04  
Degree Revoked:  
April 14, 1988

DECISION

On October 28th, 1987 the Appeals Board of the University Tribunal met to consider Mr. G. 's appeal from the penalty of revocation of his Bachelor of Education Degree and replacement of the degree by a Diploma in Technical Education imposed by the jury at the Trial Division of the Tribunal on July 30th, 1987. The grounds for appeal were that new evidence had been obtained by Mr. G. subsequent to the conclusion of the trial and that the Tribunal had erred in law in that there was insufficient evidence adduced by the University to satisfy the burden of proof upon it.

The Appeals Board heard submissions from Mr. Lewchuk, Counsel for the appellant, that Mr. G. had learned the names of two retired staff members who had been at Woodsworth College and the Faculty of Arts and Science at the time Mr. G. was alleged to have attended the University in the Department of Extension pursuing a Bachelor of Arts degree program. These two witnesses could testify to the procedures that were in place at the time in question. It was Mr. Lewchuk's contention that the University had called witnesses to give record-keeping evidence to prove that Mr. G. had not attended the University but most of the witnesses called by the University had been currently employed administrators and could only speculate as to what the record-keeping procedures had been in the past.

After hearing submissions from both Mr. Lewchuk and the Counsel for the University, Mr. Laskin, the Appeals Board held that it had no reason to believe that the evidence of the two witnesses would not be credible evidence. However, the Board did not believe that if the evidence was, in fact, adduced, it would affect the result as arrived at by the jury at the Trial Division. In that respect the Board could not agree with Mr. Lewchuk that the evidence was crucial and ruled that there was nothing before the Board to satisfy the onus set out in Section L.2.(2) of the Code of Behaviour and permit the introduction of new evidence in the appeal, i.e., that the circumstances were exceptional. Accordingly, the Board dismissed the application of the appellant to adduce fresh evidence.

The Board next addressed the question of the Tribunal having had insufficient evidence before it to convict. Mr. Lewchuk reviewed the evidence from the trial hearing. He concluded that the jury had not had sufficient evidence of the falsification of the Bachelor of Arts diploma. Mr. Lewchuk maintained that the jury had, in fact, received contrary evidence, i.e. the diploma had been accepted by the Faculty of Education. Therefore, the jury should have given that evidence greater weight than the evidence from the University's witnesses who said that they could not find any records of Mr. G. . The University's evidence was circumstantial and to prove Mr. G. 's guilt it would have had to be uncontroverted evidence.

The Appeals Board then heard submissions from Mr. Laskin with regard to the evidence presented to the jury and his contention that Mr. Lewchuk's argument was one of fact. He presented the Board with two cases heard by the Supreme Court of Canada: R. v Lampard and R. v Sunbeam Corporation.

The Appeals Board decided that even if it accepted the arguments made on behalf of the appellant in respect to record-keeping at the University in the years 1976-1977, the Board did not consider those arguments to be sufficient to quash the jury's verdict. Also, in respect to the sufficiency of evidence, the Board found the argument to be based on a question which was one of fact alone and consequently the Board would have no jurisdiction on such an appeal. (Section L.1(3)(a) of the Code of Behaviour).

Appeal Dismissed

Appearances:

Members of the Board:	Mr. D. S. Affleck, Q.C. Professor J. F. Burke Ms. S. Farha
The appellant:	Mr. G. Mr. Gordon Lewchuk (Counsel)
The University:	Mr. John Laskin