

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

REPORT NUMBER 252 OF THE ACADEMIC APPEALS COMMITTEE

December 7, 1999 and November 1, 2000

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Tuesday, December 7, 1999, (second part) and on Wednesday, November 1, 2000, at which the following were present:

Professor Alan Mewett, Acting Chair
Mr. Muhammad Ahmad
Professor Wayne Hindmarsh
Ms Susan Scace
Professor Donna Wells

Secretary: Ms Susan Girard

In attendance:

For the Student:

Mr. O, the student

For the School of Graduate Studies:

Ms Sari Springer, Cassels Brock & Blackwell
Professor C. Grisé, former Acting Associate Dean, Division I

This matter first came before this Committee in December, 1999, which met to consider the student's appeal from a decision of the Graduate Academic Appeals Board of December 1, 1998. At that time Ms Springer moved that the appeal be summarily dismissed as being frivolous or vexatious and as disclosing no proper grounds for appeal. While the Committee at that time (differently constituted from the present one) tended to agree with the motion, it appeared during the submissions by the student that what he was really appealing was not the decision of the Graduate Academic Appeals Board of the School, which decision was, in any case, in his favour, nor the mark awarded on the rereading, a matter beyond the jurisdiction of this Committee, but the procedures adopted at the rereading of his paper. Specifically, he alleged that there had been improper communication between the School (or some member or members of it) and the re-reader, that may have influenced the rereader in his assessment. There was little evidence to support that allegation, but the Committee was of the opinion that the allegation was serious enough, that the appeal should be heard on that issue and only on that issue, and the student was requested to amend his appeal notice limiting the issue on appeal. The decision of the Committee on that issue is follows this decision.

The student has declined to amend his Notice of Appeal and Ms Springer repeated her motion for summary dismissal. This Committee, however, held that the notice, even unamended, contained one clause that, construed favourably towards the student, could support his appeal and it rejected

the motion and called upon the student to support his allegation of improper communication in an attempt to influence the rereader.

The student pointed to certain words and phrases that appeared both in the written assessment of the rereader and in the assessment of others in the School who had read the paper -- the use of the word "assignment" instead of essay and the use of the word "work". The student also pointed out that the copy of the written assessment sent by the rereader to the School which he had received, showed that a sentence had been deleted from the copy and that this demonstrated that something improper had occurred.

Both Dean Grisé and the rereader testified (the latter by means of telephone) that there had been no such communication and that the only communications had been the necessary ones arranging for the rereading and setting out the terms and instructions required by the School. This Committee accepts that testimony. The words used in both sets of assessments are ordinary words familiar to all academics and used by them constantly. It is hardly surprising that different academics use those same words, without there being any prior communication between them.

It is the practice of the School to send a copy of the rereader's assessment of the paper to the student, but to delete any comment that is not relevant to this assessment. In fact, only one sentence was deleted. That sentence contained a comment on the student himself, rather than the paper, and, far from being critical of him, was actually complimentary. In the result, in the opinion of this Committee, there is absolutely nothing sinister to be read into the deletion. However, it is not a wise practice. Any deletion is bound to be viewed with some suspicion by a student involved in the events. It is preferable, in the opinion of this Committee, in order to avoid such suspicions being raised, that the student be given an exact copy of the written assessment, save only for any matter that might disclose the identity of the rereader.

The Committee is of the opinion that there is absolutely no credible evidence to support the allegation of the student that there has been any improper communication between the School and the rereader and the appeal is therefore dismissed.

Alan W. Mewett
Acting Chairman

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Tuesday, December 7, 1999, at which the following were present:

Professor Alan Mewett, Acting Chair
Professor Clare Beghtol
Professor John Mayhall
Mr. Kashif Pirzada
Professor Ronald Venter

Secretary: Ms Patti Seaman

In attendance:

For the Student:

Mr. O., the student

For the School of Graduate Studies:

Ms Sari Springer, Cassels Brock & Blackwell

The Committee met on December 7, 1999 for the purpose of considering a motion filed on behalf of the respondent School for summary dismissal of the appeal on the ground that notice of appeal had been brought out of the stipulated time on the ground that it was vexatious and frivolous within the meaning of the terms of reference for the Academic Appeals Committee.

The facts of this case will appear in the report of the Committee dealing with the substantive issues involved and need not be repeated at this point, save insofar as they help to clarify the present ruling.

The decision appealed from was that of the Graduate Academic Appeals Board dated December 1, 1998, ordering a re-read of the student's paper in SLA 1225S. The Notice of Appeal was dated June 23, 1999, well beyond the 90 days limitation period set out in the terms of reference. If that has been the sole appeal of the student, it would, indeed, appear to have been well beyond the limitation period. However, as the argument before the Committee progressed, it became apparent that what the student was really appealing was not the decision of the Graduate Academic Appeals Board dated December 1, 1998, but the procedure followed during the process of the re-reading of his paper. The revised mark on the re-reading was not communicated to the student until some time much later, April 16, 1999 and it was not until June 23, 1999 that the effect of the revised mark on the paper on his overall final mark for the course SLA 1225S was formally communicated to the student. Whichever date one takes as the commencement of the limitation period, it is clear that the student was diligent in pursuing the appeal and if he was late at all, it was only a matter of a day or two. The Committee dismisses the motion quashing the appeal on the ground that it was brought out of time.

The motion for summary dismissal on the ground that it is vexatious raised different issues. It is true that this student is involved in lengthy and ongoing disputes with the School of Graduate Studies and has been since 1995, but the issue before the Committee is to determine whether

the student has shown a reasonable case for an appeal and that it not simply frivolous or vexatious. His complaint boils down to an allegation that the School of Graduate Studies did not follow its own rules in ensuring that the re-reading of his paper was fair, impartial and without bias. At this stage of the proceedings, it is not incumbent on the student to prove this, but merely to show that this is possible interpretation of the events in question. It is not the function of this Committee, at this stage, to determine the substantive merits of the appeal, and the Committee does not do so. It is however, of the view, that the student has made out a sufficient case to warrant the hearing of the appeal.

The motion to quash the appeal is dismissed. The motion for summary dismissal of the appeal is also dismissed. A date will be set for the hearing of the appeal.

Alan W. Mewett Q.C.
Acting Chairman