

IN THE MATTER OF THE UNIVERSITY TRIBUNAL
APPEAL DIVISION

BETWEEN: The University of Toronto

Complainant
(Appellant)

- and -

Mr. S.

Accused
(Respondent)

BEFORE: Her Honour Judge Rosalie Abella,
Mr. D. S. Affleck,
Ms. Gloria Klowak

REASONS:

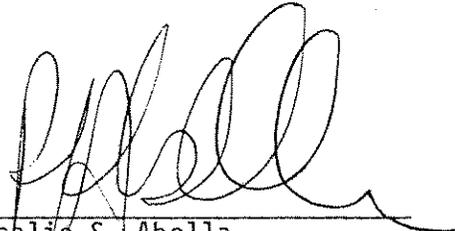
The University appealed the sanction imposed by the jury at the trial of this matter as being too lenient, and therefore inappropriate in the circumstances.

The introduction of further evidence was sought by the University. The evidence sought to be introduced was available at trial. The University chose not to adduce it on grounds that it might be prejudicial to the student. The University claimed that the information was relevant and should be considered by the appellate tribunal.

Although the appellate tribunal is entitled to accept new evidence, it should not do so unless the circumstances are exceptional, the evidence was unavailable or unknown at trial. To do otherwise would take away from the jury its duty to consider all relevant evidence in disposition. It would also subject an accused to the possibility of two consecutive bodies considering de novo identical issues. This is unnecessarily prejudicial to the accused without depriving the University of any of its rights. The application for leave to introduce additional evidence was therefore dismissed.

Having heard the University's submissions with respect to the sanction imposed at trial, the appellate tribunal was of the opinion that the sanction assigned was not palpably unreasonable or inappropriate. The tribunal therefore dismissed the University's appeal.

Decision Delivered: October 22, 1981



Judge Rosalie S. Abella
co-chairman



Donald S. Affleck
co-chairman



Gloria Klowak
co-chairman