

CONFIDENTIAL

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL

REPORT NUMBER 73 OF THE ACADEMIC APPEALS BOARD

September 8th, 1982

To the Academic Affairs Committee,
University of Toronto.

Your Board reports that it held a meeting on Wednesday, September 8th, 1982, at 3:15 p.m. in the Council Chamber, Faculty of Pharmacy, at which the following were present:

Professor J.B. Dunlop (In the Chair)
Mr. David Bessen
Professor Ernest G. Clarke
Mr. Tony Clement

Professor John R. Percy
Mrs. Joan R. Randall
Professor Roger M. Savory
Miss M. Salter, Secretary

In Attendance

Mr. *M.*

Mrs. Darlene Myers,
Director,
Diploma and Certificate
Programmes,
Woodsworth College

Mr. A.R. Waugh,
Assistant Principal and
Registrar,
Woodsworth College

Mr. *P.*
and counsel:
Mr. Tim Wach,
Downtown Legal Services

Mrs. G. Curri,
Registrar,
Scarborough College

Mr. *C.*

THE MEETING WAS HELD IN CLOSED SESSION

THE FOLLOWING ITEMS ARE REPORTED FOR INFORMATION

1. Mr. *M.*

At a meeting on September 8th, 1982, the Academic Appeals Board considered the appeal of *MR. M.* from a decision of the Appeals Committee of Woodsworth College refusing his petition to re-write the final examination in CCB102H in which he had obtained a grade of E. The decision of the Board is that the appeal should be dismissed.

The appellant took the course in the summer session of 1981. He wrote the exam during the examination period in August and in October at the suggestion of his physician he petitioned for permission to re-write. The supporting letter dated October 2nd, from the physician stated that the appellant "was badly distracted during the past four months due to the severe medical and emotional problems of his wife. Because of this, he could not give his entire concentration to the course he was taking". The petition was turned down on the grounds that it ought to have been filed before the end of the examination period to which it related as required by the regulations of the Faculty of Arts and Science. In December the appellant filed a further letter from the physician which certified he "was badly distracted during the past four months due to the severe medical and emotional problems of his wife. He was not aware of this problem and in my opinion he could not give his entire concentration to the course he was taking". Woodsworth College declined to entertain this second appeal and the appellant decided to take the course again but unfortunately failed to register on time so that the course was full and he could not get in. He said he got the impression that he did not need to register but the evidence did not indicate that this was the fault of Woodsworth. On June 26th, 1982 the appellant launched his appeal to the Board.

The letter of December 21st, presumably attempted to account for the appellant's failure to file his original petition within the time specified in the regulations. However, a letter that says merely that the appellant "was not aware of this problem" is not persuasive on the issue of extenuation and, indeed, the medical evidence generally seemed rather perfunctory and speculative, relating to a much earlier time than the date of any medical examination or treatment. The petition on medical grounds seems to have been very much an afterthought.

Furthermore, the letter of October 2nd does not suggest that his problem prevented the appellant from disclosing on the examination the true state of his knowledge in the course. Rather, it suggests that he failed to absorb the course material, a proposition the examination result seems to bear out. The appropriate remedy in such circumstances is, of course, to repeat the course. Presumably if the course is offered again it will be open to the appellant to take it.

Because, therefore, the appellant's medical petition was not filed on time, because the Board was not persuaded that there were good reasons for this failure and because, in any event, the remedy of re-writing the examination does not seem to the Board to be an appropriate one in the circumstances, the appeal is dismissed.

2. Mr. P.

At a meeting on September 8th, 1982, the Academic Appeals Board heard the appeal of Mr. P. from a decision of the Sub-committee on Academic Appeals of Scarborough College denying an appeal from a decision of the Committee on Standing which had refused the appellant's petition to have an essay re-read. The decision of the Board is that the appeal should be allowed and the case referred to the Committee on Standing to be reconsidered in the light of evidence which was presented to the Board but which had not been presented to the Committee on Standing nor to the Subcommittee on Academic Appeals. The Board felt that had the Committee on Standing been aware of this evidence its decision might well have been different.

The only comment appearing on the appellant's paper was that it was "basically off topic". Evidence concerning the instructions given to the appellant (or the lack thereof) suggested that the appellant had some justification for interpreting the topic as he did.

Because the Board, although an appellate tribunal, hears original evidence which may not have been presented before, as it is required to do by the Statutory Powers Procedure Act, the Board sometimes sees a case in quite a different light from that in which it was seen by the Faculty's Committee. This is frequently the result of the appellant having obtained advice and assistance in the presentation of his case to the Board after having presented it himself to the Faculty body. It is a circumstance which points up the value of obtaining advice and assistance in the early stages of the petition or appeal. Not only the appellant but the relevant committee benefits from the presentation of the case in its most cogent form.

The appeal is allowed.

3. Mr. C.

At a meeting on September 8th, 1982 the Academic Appeals Board heard the appeal of Mr. C. from a decision of the Subcommittee on Academic Appeals of Scarborough College refusing to interfere with the appellant's one-year suspension. The decision of the Board is that the appeal should be dismissed.

The appellant entered Scarborough College in September 1979. By the end of the 1980-81 winter session he had a cumulative grade point average of 1.39 and according to the rules which required him to have an average of 1.5 was subject to suspension at that time. However, this

3. Mr. C. - (Cont'd)

suspension was deferred by the exercise of an administrative discretion the existence of which came as a surprise to the Board because no reference to it is to be found in the Scarborough calendar, where one would expect to find such a significant qualification to an apparently rigid rule to appear. Presumably the reason for the exercise of this discretion was that the appellant had done markedly better in his second year than in his first. His sessional GPA had risen from .92 to 1.82 thereby improving his cumulative GPA from .92 to 1.39. At the end of the 1981-82 winter session the appellant achieved a sessional GPA of 1.55 and in consequence his cumulative GPA remained below the crucial 1.5 level at 1.45. Had he done as well in the third year as he had in the second his GPA would have been sufficient. The Board also learned that no administrative discretion to defer suspension a second time exists and since the rule is clear the Board has no basis upon which to interfere with its operation. The fact that the appellant does not regard a one-year suspension as in his best interest, that he believes that he has learned from his mistakes, and that he feels that he will improve are not grounds that entitle the Board to grant the appellant's request. The Board too, is bound by the rules and can only give relief from their application where extenuating or special circumstances have been shown to exist.

The appeal is dismissed.

Secretary
November 26th, 1982.

Chairman

