

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 151 OF THE ACADEMIC APPEALS COMMITTEE

June 22nd, 1992

To the Academic Board,
University of Toronto.

Your Committee reports that it held a hearing on Monday, June 22nd, 1992 at 10:30 a.m. in the Flavelle Room, 78 Queen's Park Crescent, at which the following were present:

Professor J. B. Dunlop, Chairman
Professor W. R. Cummins
Professor J. T. Mayhall
Professor K. G. McNeill
Mr. C. Walker

Ms L. Snowden, Secretary

In Attendance:

Mr. SS, the appellant
Mr. D. Harris, Downtown Legal Services
Associate Dean M. J. Phillips, School of Graduate Studies
Professor J. A. Packer, Department of Civil Engineering
Mr. T. Pinos, Cassels Brock & Blackwell, Counsel for S.G.S.

On Monday, June 22nd, 1992 the Academic Appeals Committee heard the appeal of Mr. SS from a decision of the Committee on Applications and Memorials of the School of Graduate Studies dismissing his appeal against a decision of the Graduate Department of Civil Engineering to "request" that he withdraw from the program because of his failure in two courses in December, 1990. The decision of this Committee is that the appeal must be dismissed.

Classifying of Issue

A question was raised about the meaning of "request" in the context. Was it being suggested unofficially that the appellant voluntarily withdraw or was he being required to discontinue? It appeared that "request" was a polite or euphemistic way of requiring a student to withdraw. It was a stated policy of the Department that failure in two subjects would result in a "request" to withdraw. The School of Graduate Studies has a published policy allowing graduate units to recommend and the School to approve termination of a student whose work is unsatisfactory. The Department, as the Applications and Memorials Committee noted, normally asks students who fail two or more courses to withdraw. In its reasons dismissing the appeal the Committee

Report Number 151 of the Academic Appeals Committee

asserted that they had treated the matter "as if a formal termination of the student's status in the program had been effected by the School". Later the Committee observed that it was normal policy of the Department to require withdrawal after two failures in the first term. In light of all this it is impossible to think a "request" is meant to be anything but a more dignified termination than an "order" to withdraw would be.

Assessing the Case

An appeal that began with the Examination and Degree Committee, but failed to persuade them to change their ruling, had greater success at the level of the Associate Dean of the Division.

Based on medical grounds, specifically a hip injury resulting from a fall, the appellant won the right to what was, for the particular department, an extraordinary remedy, supplemental examinations to be written after the regular spring term exams. In the meantime the appellant was to take regular spring term courses but was to learn nothing of his success or failure until the supplementals were graded. This was consistent with the idea that, were he successful in the supplementals, the appellant would be entitled to proceed and his second term courses, provided he had succeeded in passing them as well, could be added to keep appellant on schedule to complete his program.

The appellant's evidence was of a medical problem severe enough to cost him the opportunity to demonstrate his true ability. He personally asserted that he had fallen and suffered the injury. He did not really explain the effects. He had a medical certificate dated in January containing a physician's observation that the appellant had advised the physician that he had injured his hip in a fall on ice in November. Thus there was no independent evidence of the injury. In other words, the physician was merely reiterating what the appellant had said, which added no weight.

The Second Appeal

Only after learning that he had failed the supplementals did the appellant discover that he had failed the two spring term courses as well. These results took him by surprise, he said, because he had had no "feedback" from these courses as he would have had under the Grading Practices Policy in ordinary circumstances. Presumably this departure from the Policy can only be justified on the theory that unless the appellant were re-instated these courses were not officially part of his program. What would have happened had he passed these spring courses and failed the supplementals is a question we need not answer.

In our view the requirement of withdrawal, which had been stayed pending the supplementals, was now imposed because of the repeated failure in those first two courses. Hence his spring term courses did not become an official part of his program.

The second appeal was based on medical grounds but not grounds raised earlier. Instead the appellant pleaded illness in the form of a kidney stone which had caused him low back pain throughout the year. He also claimed, with some justification, that he was handicapped by lack of information as to his progress and success in the spring term courses. Nevertheless his appeal related only to the supplementals and the Committee on Applications and Memorials were unconvinced that the appellant would have done better in the absence of these handicaps. In their words the medical condition involved "a degree of disability...that does not justify allowing this appeal".

Report Number 151 of the Academic Appeals Committee

The appellant's statement filed on the appeal to this Committee described his condition more dramatically, but the evidence did not measure up to that promise. The appellant had a medical certificate from a general practitioner in India which amounted to a statement of the consequences the appellant might have experienced if suffering from a kidney stone. No objective examination of the appellant while he suffered the pain had been described so there was little medical evidence of the existence of his condition. His own description of the pain he suffered was rather pallid.

The result of this lack of convincing evidence of serious interference with his program and of evidence of potential achievement without the handicap leads us to conclude that the appeal must be dismissed.

This leaves the question of the appellant's transcript somewhat unclear. The failures in first term must remain such. The second term courses he was only allowed to take so that if he were to pass the first term supplementals he would be able to continue his program without losing time.

As the condition was not fulfilled, the courses have no official status and should not be included on his transcript. In this, we differ from the Applications and Memorials Committee. Otherwise we share their views entirely.

Appeal dismissed.

L. Snowden
Secretary

Professor J. B. Dunlop
Chairman

July 30th, 1992