

UNIVERSITY OF TORONTO

THE GOVERNING COUNCIL

REPORT NUMBER 156 OF THE ACADEMIC APPEALS COMMITTEE

August 12th, 1992

To the Academic Board,  
University of Toronto.

Your Committee reports that it held a hearing on Tuesday, August 12th, 1992 at 2:00 p.m. in the Flavelle Room, Faculty of Law, 78 Queen's Park Crescent, at which the following were present:

Professor J. B. Dunlop, Chairman  
Professor C. C. Brodeur  
Mrs. D. Hellebust  
Professor J. T. Mayhall  
Mr. W. Robinson

Ms L. Snowden, Secretary

In attendance:

Ms N.D.  
Mr. D. Heller, Downtown Legal Services, counsel for the appellant  
Professor M. Donnelly, Associate Dean, Faculty of Arts and Science

At a meeting on August 12th, 1992 the Academic Appeals Committee heard the appeal of Ms. N.D. from a decision of the Academic Appeals Board of the Faculty of Arts and Science refusing her appeal to be allowed to withdraw from PHY110Y without academic penalty. The decision of the Committee is that the appeal should be allowed.

Reasons for Requesting Late Withdrawal

The appellant was enrolled in PHY110Y during the academic year 1990-91. It was a class of 250. The appellant gave evidence that because of the size of the class she depended greatly on the Teaching Assistants in tutorials to ensure that she understood the substance of the course. In February and March of 1991, after the "drop date" for the course, there was a strike by the Teaching Assistants. The appellant testified that until the strike began she felt relatively comfortable about her progress and expected to do reasonably well on the examination. The strike altered the balance considerably in the appellant's opinion and she sought late withdrawal. This was available according to Faculty regulations in "special circumstances". As she had not heard the result of her petition by the examination date, the appellant wrote the examination. She did not do well.

## Report Number 156 of the Academic Appeals Committee

### The Reasons for Refusal

It was said by the Academic Appeals Board that her term marks indicated that she would have achieved a bare pass, but the appellant pointed out that her poor marks had been early in the year and that her performance was steadily improving.

The Faculty of Arts and Science recognized that the TA's strike was a "special circumstance" as provided in regulations of the Faculty and compiled a list of courses from which late withdrawal would be permitted. However, PHY110Y was not included. The list was never published but the appellant had information that PHY138Y, an advanced version of PHY110Y, *was* on the list.

In the only provision that was made for PHY110Y, the course material for which the students would be responsible on the examination, was curtailed. This may well have been a reasonable solution but it was something of which the appellant claimed to have no knowledge. The Academic Appeals Board in its reasons for decision asserted that the appellant was the only one of the 250 students in the class who did not know but how they came to that conclusion is something that was not explained.

### This Committee's Analysis

That no other case of a student being ignorant of the fact had been drawn to their attention would not justify the conclusion that all were aware of the exclusion of material from the examination. And since the evidence was that the information was given out in a class session (not, as far as we know, repeated) in our view even if the appellant were the only person unaware it would not justify depriving her of relief or remedy. In the circumstances, it would have been prudent, we suggest, to use more than one medium of communication.

The circumstances, therefore, are these: the appellant might reasonably have expected to do better than she did, and better than the Academic Appeals Board thought she would have done had there been no strike. That the strike constituted a special circumstance was clear from the Faculty's course of action in allowing some late withdrawals and curtailing some courses. That this particular course was curtailed indicated recognition of the importance of the TA's. But the appellant did not have the advantage of the remedial action because she did not know of it and acted as though she were responsible for all the course material. This may well have explained her grade and in our view justifies allowing her to withdraw without academic penalty. She made an effort to do so before the examination period but wrote the examination because she had not heard the disposition of her petition.

### The Appropriate Remedy

The Board stated that the way to deal with the appellant's problem would be to ensure that anyone to whom her transcript was subsequently submitted be informed of all the facts and this is, in many situations, we would agree, the only solution available. But where the appellant had grounds for late withdrawal and applied for late withdrawal she should not be prejudiced by having written the examination pending notification of the result of her petition.

**Report Number 156 of the Academic Appeals Committee**

The appeal is allowed and the appellant should have the grade in PHY110Y removed from her transcript.

Ms L. Snowden  
Secretary

Professor J. B. Dunlop  
Chairman

September 16th, 1992