

ONTARIO COLLEGE OF TEACHERS
DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

IN THE MATTER OF ONTARIO COLLEGE OF TEACHERS ACT, 1996, and the Regulation (Ontario Regulation 437/97) thereunder:

AND IN THE MATTER OF discipline proceedings against **George Fred Abdallah**

The Discipline Committee held a hearing on July 13, 1998,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

George Fred Abdallah

PRESENT:

Members of the Panel

Kathleen McFadyen(Chair)

Donna Marie Kennedy

George Merrett

Robert Reid, Independent Counsel for the Panel

L. Thomas Forbes, Counsel for the Ontario College of Teachers

Paul Cavalluzzo, Counsel for George Fred Abdallah

In the matter between the Ontario College of Teachers and George Fred Abdallah, a motion was made on behalf of Mr. Abdallah.

The motion was for:

1. A Declaration that the Ontario College of Teachers has no statutory jurisdiction to consider the complaint of professional misconduct raised in these proceedings against George Fred Abdallah.
2. An Order quashing the decision of the Investigation Committee of the Ontario College of Teachers that the complaint of professional misconduct against George Fred Abdallah be referred to the Discipline Committee.
3. An Order revoking the Notice of Hearing issued to George Fred Abdallah dated February 13, 1998, and an Order that the matters underlying the complaint, including the matters raised in the Notice of Hearing, shall not in future form the basis of any proceedings at the Ontario College of Teachers against George Fred Abdallah.
4. Any such additional relief as counsel may advise and the Discipline Committee deems just.

Submissions were presented by Paul Cavaluzzo on behalf of George Abdallah and Tom Forbes on behalf of the Ontario College of Teachers.

In *Brosseau v Alberta Securities Commission* (1989), 57 D.L.R. (4th), p. 471 it is stated that, “the general rule is that statutes are not to be construed as having retrospective operation unless such a construction is expressly or **by necessary implication** required by language of the **Act.**”(emphasis added)

We find such an implication is necessary. We accept and adopt Tom Forbes’ argument, both written and oral, in support of this finding.

The *Ontario College of Teachers Act* included the transitional regulation which clearly indicates the expressed intention of the Act to give disciplinary authority to the Ontario College of Teachers. Although the transitional regulation O. Reg 276/97, s.1, applied only to the cases referred by the Minister to the Ontario Teachers Federation, the Committee, nevertheless, finds by necessary implication, that the College does have jurisdiction to deal with matters that do not fall within the Regulation.

This intent is further exhibited in the *Ontario College of Teachers Act* s.14(5), which states: “A person whose certificate of qualification and registration is revoked or cancelled continues to be subject to the jurisdiction of the College for professional misconduct, incompetence or incapacity referable to any time during which the person held,

- (a) a certificate of qualification and registration under this Act; or
- (b) an Ontario Teacher’s Certificate or letter of standing as a teacher under the Education Act.”

This once again illustrates the intent that the *Professional Misconduct Regulation* applies to those members who held/hold an Ontario Teaching Certificate or a certificate of registration from the Ontario College of Teacher.

Under the *Education Act R.S.O. 1993 s264(1)(c)*, its regulations and under the *Teaching Profession Act*, the duties of a teacher are clearly stated. Teachers who breach the *Education Act* and its Regulations have long been subject to disciplinary action. In the past discipline was dispensed by the Minister of Education. In effect that authority has been transferred to the Ontario College of Teachers.

Therefore, the Committee rejects the argument that the Discipline Committee does not have jurisdiction in this matter. The motion is dismissed.

DATED AT TORONTO, THIS 13 DAY OF July , 1998
BY ORDER OF THE DISCIPLINE COMMITTEE

Kathleen McFadyen (Chair)

Donna Marie Kennedy

George Merrett