

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 Robert Allan Brown.

The Discipline Committee held a hearing on April 19, 2001,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**ROBERT ALLAN BROWN
CERTIFICATE # 207160**

PRESENT:

Members of the Panel

Guill Archambault (Chair)

Bernard J. Adam

Janet Cornwall

The Honourable Lloyd Houlden, Independent Counsel to the Panel

David Leonard, McCarthy Tétrault, Counsel for the Ontario College of Teachers,
assisted by Trevor Evans, Senior Law Clerk.

The member was not present, nor was he represented.

This decision is subject to a publication ban. On April 19, 2001, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of the students involved in this matter.

A Notice of Hearing, dated December 11, 2000, was served on Robert Allan Brown requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 15, 2001 to set a date for hearing, and specifying the charges. A hearing date was scheduled for April 19, 2001.

It is alleged that Robert Allan Brown is guilty of professional misconduct in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) he abused a student physically, sexually, verbally, psychologically, or emotionally, contrary to Ontario Regulation 437/97, subsection 1(7);
- (c) he failed to comply with the Act and the *Education Act*, Revised Statutes of Ontario, 1990, Chapter E.2 and particularly section 264(1)(c) thereof or with the regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (d) he contravened a law, and that contravention is relevant to his suitability to hold a Certificate of Qualification and Registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (e) he committed acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18);

- (f) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- (g) he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of a student of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's Certificate should be made subject to terms, conditions or limitations.

The Notice of Hearing states that Robert Allan Brown is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers (Exhibit #1).

On April 19, 2001, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Robert Allan Brown was guilty of professional misconduct.

Robert Allan Brown was not in attendance at the hearing, nor was he represented by counsel. Proof of service of the Notice of Hearing was presented and accepted by the panel.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in Exhibit #1, alleging that Robert Allan Brown is guilty of professional misconduct in that his acts were contrary to the Professional Misconduct Regulation made under the Ontario

College of Teachers Act and filed as Regulation 437/97 on December 4, 1997, in particular, subsections 1(5), (7), (14), (15), (16), (18), (19).

Particulars of the alleged misconduct are set out in Exhibit #1 and they are to the effect that:

1. Robert Allan Brown is a member of the Ontario College of Teachers.
2. At all material times, the member was employed by the Lakehead District School Board and its predecessors as an elementary school teacher.
3. At all material times, the [REDACTED] was a 13 or 14 year old female student of the member's at Jumbo Garden's School, Thunder Bay, where the member was employed as a teacher.
4. On or between January 1, 1977 and September 30, 1977, the member fostered, encouraged or permitted the development of a personal relationship between himself and the said 14 year old female student, [REDACTED]
5. On or between February 1, 1977 and September 30, 1977, the member was involved in a romantic and sexual relationship with the said student, during which he and the said student engaged in sexual intercourse and oral sex.
6. On or between September 1, 1977 and December 31, 1977, after the said relationship between the member and [REDACTED] had been terminated, the member telephoned the said student several times in an attempt to re-establish the said sexual relationship with that student.
7. On or about November 20, 1998, the member was charged with two offences under the *Criminal Code of Canada* and on or about September 25, 1999, the member was convicted of having sexual intercourse with [REDACTED] between February

- 1, 1977 and September 30, 1977, she being a female of previously chaste character over 14 and under 16 years, contrary to section 146(2) of the *Criminal Code of Canada*.
8. On or about December 3, 1999, the member was sentenced to a period of 12 months conditional imprisonment in respect to the said conviction.
 9. The member retired his position as teacher with the said Lakehead District School Board effective June 30, 1998.

Counsel presented evidence that Robert Allan Brown is a member of the Ontario College of Teachers (Exhibit #1). At all material times, Robert Allan Brown was employed by Lakehead District School Board and its predecessors as an elementary school teacher.

An Agreed Statement of Facts and Guilty Plea was filed as Exhibit #2. That statement was dated March 21, 2001 and had been signed by the member and Counsel on behalf of the Ontario College of Teachers. Attached to that document was the Certificate of Conviction (Exhibit A), the Reasons on Sentence, dated December 3, 1999 (Exhibit B) and the Notice of Hearing (Exhibit C).

FINDINGS OF FACT:

Based on the Agreed Statement of Facts and Guilty Plea, the panel finds the following facts:

- (1) Robert Allan Brown is a member of the Ontario College of Teachers.

- (2) At all material times, the member was employed by the Lakehead District School Board and its predecessors, as an elementary school teacher.
- (3) Until June, 1977, the female student , [REDACTED] of the member attended at Jumbo Gardens School, Thunder Bay, where the member was employed as a teacher.
- (4) On or about September 25, 1999, the member was found guilty and was convicted of having had sexual intercourse with [REDACTED] between March 9, 1977 and September 30, 1977, she being a female of previously chaste character over 14 and under 16 years, contrary to section 146(2) of the *Criminal Code of Canada*.
- (5) On or about December 3, 1999, the member was sentenced to a period of 12 months conditional imprisonment in respect to the said conviction.
- (6) The member retired his position as teacher with the said Lakehead District School Board effective June 30, 1998 at the age of 56 after teaching thirty-four (34) years with the said school board.
- (7) By the document entitled the Agreed Statement of Facts and Guilty Plea, Robert Allan Brown accepted that the matters referred to in the preceding paragraphs constitute professional misconduct and pleaded guilty to the allegations of professional misconduct being more particularly breaches of Ontario Regulation 437/97.
- (8) In light of the admitted facts and circumstances, the Ontario College of Teachers asked that the Discipline Committee find the member guilty of professional misconduct and requested that the Registrar be directed to immediately revoke the Certification of Qualification and Registration of the member, Robert Allan Brown, which was not contested by the member.

- (9) At the member's request, the Ontario College of Teachers was not seeking a fine nor an order that the member pay the costs of the proceeding.
- (10) The Ontario College of Teachers asked that, in addition, the Discipline Committee direct that its finding and Order be published in the College's official publication, "Professionally Speaking/Pour parler profession".

The Committee accepted the Agreed Statement of Facts and Guilty Plea as signed by the member.

DECISIONS AND ORDERS:

Accordingly, the Committee finds Robert Allan Brown guilty of professional misconduct under subsections 1 (5), (14), (15), (16), (18) and (19), and under subsection 1(7) in that he abused a student sexually, as alleged. The Committee also finds the member guilty of professional misconduct in that he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of a student of a nature or extent that demonstrates that the member is either unfit to carry out his professional responsibilities or that the member's Certificate should be made subject to terms, conditions or limitations.

The Committee directs the Registrar to revoke the member's Certificate of Qualification and Registration immediately.

The Committee denied the member's request for non-publication of his name in the professional journal of the College (Exhibit #3) for the following reasons:

It is important to the College's role in the governance of the profession to provide evidence to members that the College is active in self-regulation and is vigilant to breaches of its bylaws and rules of conduct. Such evidence is provided through notification of the decisions and orders of the College's disciplinary Committees, and is, in the opinion of the panel, a practice that has significant general deterrent value.

Pursuant to Section 30(5)(iii) of the Ontario College of Teachers Act, the Committee orders that the findings of this hearing, as well as the name of the member, be published in the official publication of the Ontario College of Teachers.

**DATED AT TORONTO, THIS 4th DAY OF MAY, 2001
BY ORDER OF THE DISCIPLINE COMMITTEE**

Guill Archambault, **Chair**

Bernard J. Adam

Janet Cornwall