

ONTARIO COLLEGE OF TEACHERS

DISCIPLINE COMMITTEE

REASONS FOR DECISIONS AND ORDERS

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

AND IN THE MATTER OF discipline proceedings against Gary William Hammell.

The Discipline Committee held a hearing on February 4, 2002,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**GARY WILLIAM HAMMELL
CERTIFICATE #228177**

PRESENT:

Members of the Panel

Solette N. Gelberg (Chair)

Sterling Campbell

Guill Archambault

The Honourable Patrick T. Galligan, retired judge, Independent Counsel to the Panel

Will McDowell, McCarthy Tétrault LLP, Counsel for the Ontario College of Teachers,
assisted by Trevor Evans, Senior Law Clerk

Ian Fellows, Green and Chercover, Counsel for the member

The member did not attend.

This decision is subject to a publication ban. On February 4, 2002, the Discipline Committee made an order directing that there may be no publication of any information which may disclose the identity of any and all complainants in this matter.

A Notice of Hearing dated November 29, 2001 was served on Gary William Hammell, requesting attendance before the Discipline Committee of the Ontario College of Teachers on December 10, 2001 to set a date for hearing, and specifying the charges. The hearing date was set for February 4, 2002.

It is alleged that Gary William Hammell 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 or students physically, sexually, verbally, and/or psychologically, and/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 specifically section 264(1)(c) thereof or the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsection 1(14) and (15);
- d) he contravened laws 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 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);
- g) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19); and
- h) he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of students 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 Gary William Hammell is a member of the Ontario College of Teachers and therefore comes under the jurisdiction of the Ontario College of Teachers.

On February 4, 2002, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether Gary William Hammell is guilty of professional misconduct.

Gary William Hammell was not in attendance at the hearing, but he was represented by counsel.

EVIDENCE:

Counsel for the Ontario College of Teachers referred to the charges set out in the Notice of Hearing alleging that Gary William Hammell 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) and (19). It was also alleged that he displayed a lack of knowledge, skill or judgement and/or a disregard for the welfare of students 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.

Counsel presented evidence that Gary William Hammell is a member of the Ontario College of Teachers (Exhibit #2). At all material times, the member was employed by the Bluewater District School Board as a teacher.

At the hearing, counsel for the member pleaded no contest with the agreement of his client and agreed to allegations as set out in Exhibit #1, as attached.

FINDINGS OF FACT:

The panel accepts the "Particulars Of The Allegations To Which Mr. Hammell Will Plead No Contest" (Exhibit #1).

The member was found guilty of one count of sexual touching of a minor, [REDACTED], contrary to Section 153(1)(a) of the *Criminal Code of Canada* (Exhibit #3).

DECISIONS AND ORDERS:

While the Committee appreciates that the member's plea of no contest saved [REDACTED] from having to testify at the Discipline Hearing, the Committee is cognizant of the member's betrayal of a trusted position.

Accordingly, the Committee finds Gary William Hammell guilty of professional misconduct under subsections 1(5), (7) in that he sexually, psychologically and emotionally abused a student or students, (14), (15), (16), (18) and (19) of the Professional Misconduct Regulation, as alleged. The Committee also found that the member displayed a lack of knowledge, skill and judgement and a disregard for the welfare of students of a nature or extent that demonstrates that the member is unfit to carry out his professional responsibilities. The Committee directs the Registrar to revoke the member's Certificates of Qualification and Registration immediately.

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 5th DAY OF FEBRUARY, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE**

Solette N. Gelberg, **Chair**

Sterling Campbell

Guill Archambault