

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 John Paul Nugent.

The Discipline Committee held a hearing on May 8, 2000,

BETWEEN:

ONTARIO COLLEGE OF TEACHERS

- and -

**JOHN PAUL NUGENT
CERTIFICATE #419606**

PRESENT:

Members of the Panel
Karen Mitchell (Chair)
Larry Capstick
Sterling Campbell

The Honourable Lloyd Houlden, Independent Counsel to the Panel

L. Thomas Forbes, Q.C., McCarthy Tétrault, Counsel for the Prosecution assisted by Trevor Evans

John Paul Nugent was not present nor was he represented.

A Notice of Hearing, dated December 15, 1999 was served on John Paul Nugent, requesting attendance before the Discipline Committee of the Ontario College of Teachers on January 10, 2000 to set a date for hearing, and specifying the charges. The hearing date was scheduled for May 8, 2000.

It is alleged that John Paul Nugent is guilty of professional misconduct in that:

- (a) he failed to comply with the *Education Act*, Revised Statutes of Ontario, 1990, chapter E.2 and particularly section 264(1)(c) thereof and/or the Regulations passed thereunder, contrary to Ontario Regulation 437/97, subsections 1(14) and (15);
- (b) he contravened laws which are relevant to the member's suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1(16);
- (c) he performed acts or omissions that, having regard to all of the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 437/97, subsection 1(18); and
- (d) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

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

On May 8, 2000, the Discipline Committee of the Ontario College of Teachers conducted a hearing into whether John Paul Nugent was guilty of professional misconduct.

John Paul Nugent 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 John Paul Nugent 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(14), (15), (16), (18) and (19).

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

1. John Paul Nugent is a member of the Ontario College of Teachers.

2. At all material times, John Paul Nugent was employed as a principal by the Keewatin-Patricia District School Board at the Hudson Public School in Hudson, Ontario.
3. As principal, John Paul Nugent was responsible for the management of the budget of Hudson Public School and was entrusted with a VISA credit card for purchases of school equipment when authorized by the Board of Education.
4. On March 10, 1999, two school days before the March break of that year, John Paul Nugent left Hudson Public School advising the school secretary that he had the Board's permission to take a leave of absence.
5. On or about that date, John Paul Nugent removed from school premises, the following school equipment:
 - (a) an Epson 740 colour printer valued at \$429.00
 - (b) a Toshiba 8000 laptop computer valued at \$4,469.00; and
 - (c) a Sony camcorder valued at \$897.45.
6. On March 11, 1999, John Paul Nugent, in the Board's name, purchased and removed a Canon ZR camcorder valued at \$1,699.99, a Sony mini-cassette recorder valued at \$76.99 and a Sony portable CD player valued at \$209.99.
7. John Paul Nugent did not have permission or authorization from his employer to remove the above mentioned electronic equipment from school premises.
8. Between on or about March 10, 1999 and March 22, 1999, John Paul Nugent used the Board's VISA card for unauthorized personal purchases, contrary to paragraph 1 of the Purchase Card Holder Agreement entered into between John Paul Nugent and the Board of Education.

9. John Paul Nugent failed to return to his employment as principal at Hudson Public School, following the March break on March 22, 1999 and, on or about March 24, 1999, telephoned the school secretary at Hudson Public School and advised her that he was ill, receiving treatment in New Brunswick, would be absent for approximately two weeks and that he had advised the Superintendent, Janet Wilkinson, of the Keewatin-Patricia District School Board of the situation.
10. John Paul Nugent has failed to return to his employment at Hudson Public School with the Keewatin-Patricia District School Board and has failed to provide any information in regards to his continued absence.
11. Contrary to his statement to the school secretary in regard to his absence, John Paul Nugent did not speak with his Superintendent in regards to the alleged illness nor his absence.
12. John Paul Nugent has failed to make restitution in respect to the personal purchases on the Board's VISA credit card, nor to explain his actions in regard to those purchases.
13. John Paul Nugent has failed to return to the Board or Hudson Public School, the electronic equipment detailed above.
14. On June 24, 1999, John Paul Nugent was charged in absentia, with four counts of fraud under \$5,000.00 involving some of the unauthorized credit card purchases, contrary to section 380(1) of the *Criminal Code of Canada* and six counts of theft under \$5,000.00, involving the stated electronic equipment, contrary to section 334 of the *Criminal Code of Canada*.

15. In respect to those outstanding charges, Canada-wide warrants have been issued for John Paul Nugent's arrest.
16. On or about May 11, 1999, the Keewatin-Patricia District School Board terminated John Paul Nugent's employment.

At all material times, John Paul Nugent was employed by Keewatin-Patricia District School Board as a principal.

Janet Wilkinson, Superintendent, Keewatin-Patricia District School Board, gave evidence that she was the immediate supervisor of John Paul Nugent at all material times. She explained the new practice of issuing credit cards to the principals and that in the summer of 1998, there had been a half-day presentation regarding protocol by the Finance Department and the agreement to this practice was evidenced by a signature. Superintendent Wilkinson also stated that at no time had she given permission for an extended absence in March of 1999 to John Paul Nugent, and that she had had no communication with John Paul Nugent since March 10, 1999, prior to the spring break.

Superintendent Wilkinson testified to the discovery that between April 5, 1999 and April 29, 1999 the Board VISA credit card in John Paul Nugent's possession had been "max'd out", school equipment was discovered to be missing, and also, that purchase orders had been taken and then unauthorized purchases made (Exhibit #4). She referred the matter to the Ontario Provincial Police on April 21, 1999. Superintendent Wilkinson also

testified that the Keewatin-Patricia District School Board subsequently passed a motion terminating John Paul Nugent's employment on May 11, 1999 (Exhibit #6).

Tanya Nugent, wife of John Paul Nugent, gave testimony that on March 11, 1999 John Paul Nugent told her he was returning to New Brunswick to visit his mother. Mrs. Nugent witnessed seeing the laptop packed in his vehicle along with his clothes and other personal effects. She testified that she had received one telephone call and one voice mail message from her husband in which he made comments about his alleged medical condition. This occurred after his departure and prior to receiving a letter dated March 24, 1999 (Exhibit #7, Exhibit #8) severing all ties with her.

Constable Michael Barclay, investigating officer with the Ontario Provincial Police, testified that on March 29, 1999, he was contacted by Tanya Nugent regarding the fact that her husband was missing and on March 30, 1999 Constable Barclay was notified by Superintendent Wilkinson that John Paul Nugent was "AWOL" and had in his possession school property, without the permission of the Board. Constable Barclay laid six charges of theft under \$5,000 and one count of fraud and theft under \$5,000 laid in each of four provinces where the fraud occurred (Ontario, Quebec, New Brunswick and Nova Scotia). Constable Barclay subsequently testified that a Canada-wide warrant has been issued for John Paul Nugent. Constable Barclay's investigations could not confirm the status of any medical condition or the whereabouts of John Paul Nugent.

FINDINGS OF FACT:

The Committee finds that John Paul Nugent advised the school secretary that he had permission from the Superintendent to take a leave of absence immediately following the March break for a period of two weeks; however, the Superintendent confirmed that she was not, in fact, informed of this leave of absence.

The Committee is satisfied that the Board VISA credit card was used for personal purchases by John Paul Nugent, contrary to the Terms of Agreement (Exhibit #3).

The Committee finds that school equipment was misappropriated by John Paul Nugent.

The Committee accepts that John Paul Nugent breached the terms and conditions of his employment contract with the Keewatin-Patricia District School Board and that he was dismissed for cause (Exhibit #5).

REASONS:

The Committee accepts that John Paul Nugent failed to comply with the terms and conditions of his employment contract as principal with the Keewatin-Patricia District School Board and is persuaded that he committed acts of fraud and theft. The Committee further accepts that no evidence has been provided which attests to any medical condition.

DECISION AND ORDERS:

Accordingly, the Committee finds John Paul Nugent guilty of professional misconduct under subsections 1 (14), (15), (16), (18) and (19) of the Professional Misconduct Regulation, as alleged, and directs the Registrar to revoke John Paul Nugent's Certificate of Qualification and Registration immediately.

Notice

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 and in any other manner or medium that the Committee considers appropriate in the particular case.

**DATED AT TORONTO, THIS 8th DAY OF MAY, 2000
BY ORDER OF THE DISCIPLINE COMMITTEE**

Karen Mitchell, **Chair**

Larry Capstick

Sterling Campbell