

**DISCIPLINE COMMITTEE
OF THE ONTARIO COLLEGE OF TEACHERS**

IN THE MATTER OF the *Ontario College of Teachers Act, 1996*, and
the Regulation (Ontario Regulation 437/97) thereunder;

AND IN THE MATTER OF a discipline proceeding against
James Grant Tilston, a member of the Ontario College of Teachers.

PANEL: Nancy Hutcheson, Chair
Janet Cornwall
Ted Coulson

BETWEEN:)	
)	Jane Langford, McCarthy
)	Tétrault, for Ontario College of
ONTARIO COLLEGE OF TEACHERS)	Teachers, assisted by Jennifer
)	Robinson, Law Clerk
- and -)	
)	
JAMES GRANT TILSTON)	James Grant Tilston was not
(CERTIFICATE #353015))	present, nor was he represented
)	
)	Christopher Wirth, Stockwoods,
)	Independent Legal Counsel
)	
)	Heard: May 4, 2004

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came before a panel of the Discipline Committee for a hearing on May 4,
2004 at the Ontario College of Teachers at Toronto.

A *Notice of Hearing*, dated January 16, 2004, was served on James Grant Tilston, requesting attendance before the Discipline Committee of the Ontario College of Teachers on February 16, 2004 to set a date for a hearing, and specifying the charges. The hearing was subsequently scheduled for May 4, 2004.

James Grant Tilston was not in attendance at the hearing. Proof of service of the *Notice of Hearing* was presented and accepted by the Panel. **(Exhibit 2)**

The Allegations

The allegations against James Grant Tilston in the *Notice of Hearing* dated January 16, 2004 are as follows:

IT WAS ALLEGED that James Grant Tilston is guilty of professional misconduct as defined in sub-sections 30(2) of the Act, in that:

- (a) he failed to maintain the standards of the profession, contrary to Ontario Regulation 437/97, subsection 1(5);
- (b) he failed to comply with the Act or the *Education Act*, Revised Statutes of Ontario, 1990, Chapter E. 2 and particularly, Section 264 (1) (c) thereof, and the Regulations made under those Acts, contrary to Ontario Regulation 437/97, subsections 1 (14) and (15);
- (c) he contravened a law relevant to the member's suitability to hold a certificate of qualification and registration, contrary to Ontario Regulation 437/97, subsection 1 (16);

- (d) he performed an act or 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); and
- (e) he engaged in conduct unbecoming a member, contrary to Ontario Regulation 437/97, subsection 1(19).

PARTICULARS OF THESE ALLEGATIONS ARE AS FOLLOWS:

1. James Grant Tilston, (the “Member”), is a member of the Ontario College of Teachers.
2. At all material times, [■] was a 13-year-old female person.
3. On an occasion on or between 30 June 1981 and 31 August 1981, [■] attended a family gathering on [■] Island. The Member was present at that gathering.
4. On that occasion, the Member:
 - (a) focused a great deal of attention on [■], including telling [■] how adult she looked and how pretty she was; and
 - (b) while sitting with [■], kissed [■] on her ear, neck and shoulders, and fondled her breasts, while making groaning sounds.
5. On or about 20 December 2002, a charge was laid against the Member that he, between 30 June 1981 and 31 August 1981, at the Township of Sandfield, committed an indecent assault on [■]
6. On or about 2 December 2003, the Member was convicted of that charge and fined a total of five hundred and fifty dollars. The Member was also placed on

probation for a period of three years and ordered not to be in the presence of unaccompanied children during that time.

7. The Member has not appealed either the conviction or sentence.

Publication Ban

On May 4, 2004 the Discipline Committee made an order that there be no publication of any information that may disclose the identity of the student involved in this matter.

Member's Plea

The Member, James Grant Tilston did not attend the hearing. The Committee proceeded on the basis that the Member denied the allegations set out in the *Notice of Hearing* dated January 16, 2004. The Committee, on behalf of the Member, entered a plea of not guilty to the allegations.

The Evidence

Counsel for the College entered into evidence the following documents:

Affidavit of A. Trevor Evans (Exhibit 1)

In a sworn Affidavit dated April 30, 2004. Mr. Evans stated the following:

Prior to January 16, 2004 he was in communication with Mr. J. Lloyd Greenspoon, who advised Mr. Evans that he had instructions to represent James Grant Tilston, the Member.

On January 20, 2004, Mr. Evans forwarded copies of the Notice of Hearing and Disclosure Brief of the Ontario College of Teachers for service on Mr. Greenspoon.

Mr. Greenspoon requested that the matter be put over to be spoken to on March 24, 2004, pending receipt of instructions from his client. By letter dated March 8, 2004, Mr. Greenspoon advised Mr. Evans that he had been unable to receive instructions from the Member and would not be acting on his behalf.

Mr. Evans obtained the Member's contact information from Mr. Greenspoon and wrote to the Member on March 10, 2004 in Merced, California with respect to the proceedings before the Discipline Committee.

Mr. Evans subsequently arranged for a process server to serve the Notice of Hearing and Disclosure Brief on the Member, which was effected on March 15, 2004.

On March 23, 2004, Mr. Evans spoke to the Member by telephone. The Member confirmed that he had received the Notice of Hearing and other documents that had been served on him and advised that he did not file an appeal in respect of his criminal conviction. He further indicated that he is retired and would not attend the hearing.

Registered Member Information (Exhibit 3)

James Grant Tilston is a Member of the Ontario College of Teachers as shown on the Registered Member Information.

Brief of Court Documents – Regna v. James Tilston (Exhibit 4)

A *Brief of Court Documents* with respect to the criminal proceedings against James Tilston was submitted as evidence (**Exhibit 4**). This brief consisted of:

- A. *Certified copy of Information* sworn December 20, 2002.
- B. *Certified copy of Probation Order* dated December 2, 2003.
- C. *Reasons for Judgment and Sentencing* of Honourable Justice G.E. Michel on December 2, 2003.

These documents indicated that the Member had been charged in December 2002 and convicted in December 2003 of indecent assault on [■], a 13-year old girl, contrary to section 149 of the *Criminal Code* (Canada). This assault occurred in 1981.

The Member was represented by Counsel at trial.

In his *Reasons for Judgment*, Justice Michel stated that he accepted the following facts:

The Member took [■] to a bar, although he knew her to be under the legal age for drinking. However, he bought her a drink and made comments to her to the effect that she was developed for her age and was attractive. They had dinner with their extended family and afterwards [■] went outside to sit on the steps of the cottage. The Member also came out, sat beside her, offered to warm her and indicated that she should sit between his legs. He brushed her hair off her left shoulder and licked or kissed her from

the ear to the shoulder. He put his hands around her and grabbed her breasts, squeezing or massaging them. [REDACTED] froze.

Some seven years later, [REDACTED] wanted to report the matter to the police but her father convinced her not to do so in order to protect the family. However, she subsequently went to the police when she understood that James Tilston would be coming to work at the school where she was teaching.

Mr. Tilston agreed that he remembered the incident. However he disagreed that he had committed an indecent assault. He said “It is conceivable I could have licked her ear to shoulder. I was not sexually interested in her, and I don’t recall putting hands down to her breasts or anyone else’s.” He never touched any private area.

Judge Michel did not accept Mr. Tilston’s evidence as being fully truthful. He did accept totally the evidence of the complainant, [REDACTED], and found the Member guilty of indecent assault.

Judge Michel, in passing sentence, imposed a fine of \$550, imposed probation for a period of 3 years, and ordered him not to be alone in the presence of young persons.

Decision as to Finding

Rule 13.05 of the *Rules of Procedure of the Discipline Committee of the Ontario College of Teachers* state as follows:

13.05(1) Proof that a person has, in proceedings before a court in Canada, been convicted or discharged of an offence following a finding of guilt is proof, in the absence of evidence to the contrary, that the offence was committed by the person, if,

- (a) no appeal of the conviction or discharge was taken and the time for an appeal has expired.

The Member has not appealed the conviction or sentence within the prescribed time limits.

Having no evidence to the contrary, the Committee accepts the proof of prior conviction as described in the *Brief of Court Documents* (Exhibit 4) and finds that the Member did commit an indecent assault on [■] and that his actions constitute professional misconduct.

Having examined the Exhibits filed, and based on the submissions made by Counsel for the College, the Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that James Tilston committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 437/97, subsections 1(5), 1, (14), 1(15), 1(16), 1(18) and 1(19).

Penalty Decision

The Discipline Committee makes the following order as to penalty:

1. The Registrar of the Ontario College of Teachers is directed to revoke immediately the Member's certificate of qualification and registration, which the Member is to surrender immediately to the Registrar.
2. Pursuant to Section 30 (5) (iii) of the Ontario College of Teachers Act, orders that the findings and order of the Committee be published in summary, including the

Member's name, in the official publication of the College, *Professionally Speaking/Pour parler profession.*

Date: May 4, 2004

Nancy Hutcheson
Chair, Discipline Panel

Janet Cornwall
Member, Discipline Panel

Ted Coulson
Member, Discipline Panel