

Ontario College Of Teachers Finds Markham Teacher Guilty Of Misconduct After Stealing And Selling School Property

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Earlier this year, the Discipline Committee of the Ontario College of Teachers (the "College") released a much anticipated decision in *Ontario College of Teachers v Kastner*, 2017 ONOCT 1 ("*Kastner*"). The *Kastner* decision involved Steven Michael Kastner, a Grade 3 & 4 teacher employed by the York Region District School Board (the "Board") at Milliken Mills Public School (the "School").

During the 2014 – 2015 academic year, Mr. Kastner was involved in several incidents of misconduct which gave rise to the disciplinary proceeding. These included:

- removing two textbooks from the School and attempting to sell them;
- removing shin pads from the School and selling them for personal gain;
- removing a wallet from a purse in the School's staffroom (on this occasion Mr. Kastner did not take any money from the wallet and left it in the staffroom); and
- removing a wallet from a purse in the School's staffroom the following day (on this occasion Mr. Kastner removed money from the wallet and replaced it in the purse).

The Discipline Committee found that when confronted about this conduct, Mr. Kastner took responsibility for his actions and resigned from the Board effective September 8, 2015.

Based on the above facts, it was alleged that Mr. Kastner was guilty of professional misconduct as defined in subsection 30(2) of the *Ontario College of Teachers Act*, 1996 (the "Act") in that: he failed to maintain the standards of the profession; he failed to comply with provisions of the *Education Act*; he committed acts that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and he engaged in conduct unbecoming a member of the College.

As seen in many proceedings before the Discipline Committee, Mr. Kastner and the College introduced an *Agreed Statement of Facts and Guilty Plea*. In doing so, Mr. Kastner pleaded guilty to the allegations and waived the requirement for the College to

prove its case against him during the hearing. The Discipline Committee concluded that based on the agreed facts and the submissions of the parties, Mr. Kastner had committed the acts of professional misconduct, as alleged.

With respect to the penalty imposed, Mr. Kastner and the College jointly submitted that Mr. Kastner would enroll in, and successfully complete at his own expense, a course of instruction on ethics. He was further required to provide a certificate to the College proving completion of the ethics course.

We note that while this may seem to be a relatively minor reprimand for serious acts of professional misconduct, the Discipline Committee concluded that this penalty was "reasonable given the circumstances of this case." This would seemingly include the fact that Mr. Kastner accepted responsibility for his conduct and resigned from his position with the Board. The ethics course was further supported as a means to assist in the rehabilitation of Mr. Kastner and remind him of his obligations as a teacher in the future. The Discipline Committee did not accept that the joint penalty would "bring the administration of justice or the discipline process into disrepute."

The Discipline Committee was also quick to note that Mr. Kastner's repeated pattern of inappropriate and unethical conduct, warranted a reprimand by his peers. The reprimand, as proposed, would allow the Committee to directly address its concerns with Mr. Kastner through the ethics course and would serve as a specific deterrent to such conduct in the future. Recording the reprimand on the Register of the College would also serve as a general deterrent to other members of the profession. The Register contains publically available information on Ontario teachers, including membership status, any applicable terms, conditions or limitations placed on the member by the College, notations on file, the degrees held by the member, and any teaching qualifications they may have.

The *Kastner* decision highlights that the Discipline Committee will take a comprehensive view of appropriate penalties for professional misconduct based on the entirety of the circumstances in any given case. However, the decision also reinforces that both specific and general deterrence will be objectives in Discipline Committee proceedings. As a specific deterrent, enrollment in the ethics course and publication of the decision holds Mr. Kastner accountable for his actions. Meanwhile, as a general deterrent, publication reminds the profession that such behaviour is not tolerated and ensures the transparency of the discipline process.

By

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