AUSTRALIAN CAPITAL TERRITORY DISCRIMINATION TRIBUNAL

CITATION: FIRESTONE AND KENNETT/LAUGESEN [2007] ACTDT 6 (27 JUNE 2007)

DT 06/393 and DT 06/394

Catchwords: Disability discrimination in education and employment – complaint out of time before Commissioner - nature of the complaint referred to the tribunal - strike out application – aid, abet, counsel or procure – victimisation.

Discrimination Act 1991 ss 8, 10, 73, 81(2)(c), 89.
Post November 2006 ss 68, 79, 81.
Human Rights Commission Act 2005 ss 53, 78(1), 80, 99, 115.

Clean Ocean Foundation v Environment Protection Authority (2003) VAR 227 at 230-231.
Davies v Hawthorn [2004] ACTSC 119 (22 November 2004).
Firestone and Legal Aid Office (ACT) [2006] ACTDT 3.
General Steel Industries Inc v Commissioner for Railways (NSW) (1964) 112 CLR 125 at 129).
Holloway –v- Gilport Pty Ltd (1995) 79 A Crim R 76 at 89.
Jones v Great Western Railway Co [1930] 144 LT 194.
Kay Chaisty and City of Perth [2004] WAEOT 3.
Lucy Couper and ACT Housing DT03/18 dated 22 June 2004.
Neil –v- Nott and another (1994) 121 ALR 148 at 150.

Tribunal: Mr G C Lalor, Deputy President

Date: 27 June 2007

AUSTRALIAN CAPITAL TERRITORY)

DISCRIMINATION TRIBUNAL) NO: DT 06/393
DT 06/394

RE: **MICHAEL FIRESTONE**
Complainant

AND: **DR AMANDA LAUGESEN**
Respondent

AND: **DR JEANETTE KENNETT**
Respondent

ORDER

Tribunal : Mr G C Lalor, Deputy President

Date : 27 June 2007

THE TRIBUNAL ORDERS that pursuant to Section 79 of the Discrimination Act 1991 the complaint in each matter be struck out on the ground that it lacks substance.

.....
Deputy President

AUSTRALIAN CAPITAL TERRITORY)
DISCRIMINATION TRIBUNAL) NO: DT 06/393
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RE: **MICHAEL FIRESTONE**
Complainant

AND: **DR AMANDA LAUGESEN**
Respondent

AND: **DR JEANETTE KENNETT**
Respondent

REASONS

27 June 2007 Mr G C Lalor, Deputy President

1. This is an application, in both of these matters, to strike out an application to the Tribunal brought by Michael Firestone, referred to as the respondent in these reasons for decision. The applicants are Dr Jeanette Kennett and Dr Amanda Laugesen who are both referred to as the applicant in each matter in these reasons.

2. The respondent, on 29 November 2005, filled in an ACT Human Rights Office complaint form in each matter. In those applications he alleged discrimination because of a psychological disability he said he possessed. In relation to both complaints, he alleged victimisation because he had made a discrimination complaint. In the complaint against Dr Kennett he alleged the unfavourable treatment occurred in education and in employment in the complaint against Dr Laugesen.

3. Following investigation of both complaints, the ACT Human Rights and Discrimination Commissioner advised the respondent on 1 May 2006 that she was taking no further action on either of his complaints on several bases – that they lacked substance and further that the complaints were out of time and therefore she lacked jurisdiction.

4. On 3 May 2006 the respondent advised the Commissioner that he wished to exercise his statutory right and have her refer both matters to the Discrimination Tribunal. The Tribunal received both matters on 26 September 2006. The matter came before the Tribunal for directions on 5 October 2006 and the following directions were given:

1. *The Complainant is to file a statement with the Tribunal by 4pm Friday 27 October 2006 specifying:*
    a. *The identity of any person alleged to have treated the Complainant unfavourably;*
    b. *The nature of the unfavourable treatment alleged and the place at which and date on which it is said to have occurred;*
    c. *The area in which the discrimination occurred (i.e. employment);*
    d. *The grounds of the alleged discrimination (i.e. disability, race, sex ect);*
    e. *The grounds on which it is alleged the jurisdiction of the Tribunal is apposite.*

2. *The Complainant is also to file with the Tribunal by 4pm Friday 27 October 2006:*
    a. *A statement of any witness (including the Complainant's statement) proposed to be called to give evidence on behalf of the Complainant on the hearing of this matter;*
    b. *A list of the documents to be relied on the hearing of this matter by the Complainant from the documents forwarded to the Tribunal by the Human Rights Office;*
    c. *Any other material intended to be relied upon at the hearing of this matter by the Complainant.*

3. *The Respondent is to file with the Tribunal by 4pm 17 November 2006 a statement specifying:*
    a. *The facts relied upon by the Respondent; and*
    b. *The nature of any defence to the complaint of discrimination.*

4. *The Respondent is to file with the Tribunal by 4pm 17 November 2006:*
    a. *A statement of any witness (including any statement from the respondent) proposed to be called to give evidence on behalf of the Respondent on the hearing of this matter.*
    b. *A list of any documents to be relied upon on the hearing of this matter by the Respondent from the documents forwarded to the Tribunal by the Human Rights Office; and*
    c. *Any other material intended to be relied upon at the hearing of this matter by the Respondent.*

5. *The Complainant is to file with the Tribunal by 4pm 24 November 2006 any material in reply.*

6. *The matter is listed for hearing at 10am 6 December 2006 for two days.*

5. On 28 October 2006 the applicants caused an application to strike out the respondent's claims to be filed in the Tribunal registry. These applications were brought under Section 89 of the Discrimination Act 1991 and were listed for hearing on 6 December 2006. The application did not proceed on that date as the Tribunal was not satisfied that the respondent had provided appropriate detail of his applications sufficient to enable the matter to be properly presented. Further directions were given and the application was stood over generally.

6. On 23 January the applicants requested orders to re-open their applications to strike out the respondents applications following his filing of additional

materials to support his applications. Further directions were given on 24 February that the respondent was to file by 12 February 2007 an outline in writing of his submissions in response to the revised application to strike out his original applications.

7. By notice dated 2 March 2007 the applications were listed for hearing to 21 and 22 June 2007.

8. The Discrimination Act 1991 was amended effective from 1 November 2006 and Section 89 has been amended and appears in the amended Act as Section 79. The amended terms are not substantially different for the purposes of these applications.

9. Section 115 of the Human Rights Commission Act 2005 provides:

> "(1) *This Section applies if –*
> *(a) a person applied to the discrimination tribunal under the pre-amendment Discrimination Act, Section 89 to strike out a complaint; and*
> *(b) immediately before commencement day –*
> *(i) the application had not been withdrawn; and*
> *(ii) the tribunal had not decided the application.*
>
> *(2) The application is taken to have been made under the Discrimination Act 1991, Section 79 (Application to strike out complaint)."*

10. In declining to take further action, following her investigation into the original complaints raised by the respondent, the Commissioner's powers were as set out in the pre 1 November 2006, Discrimination Act 1991. The original application to strike out the complaint, referred to the tribunal was under Section 89 of that Act. When the matter came for hearing that was no longer the applicable law. By virtue of Section 115 of the Human Rights Act 2005 the tribunal is to apply the law as contained in the amended Discrimination Act 1991. That has one significant ramification for the respondent's complaint.

11. Section 81(2)(c) of the Discrimination Act 1991, prior to the amending Act effective from 1 November 2006, provided that any complaint to the Commissioner, in effect, had to be in relation to conduct that occurred within 12 months prior to the date of complaint or the last in a series of acts complained of must have been within that time frame. If the conduct complained of fell outside that time limit the Commissioner had no discretion but had to decline the complaint. The Commissioner in this matter declined the respondent's complaint in relation to Dr Kennett on the basis that it lacked substance and further:

> *"In my view your complaint is also out of time because I am not persuaded that continuing not to communicate with a person, in the circumstances as I understand them, amounts to a series of omissions under the Act, as I take you to be submitting. You also provide no detail of any specific acts that would bring your matter within time."*

12. In so finding, the Commissioner was constrained to decline the complaint. Once she had done this the respondent then, exercising his statutory right, referred the matter to the Tribunal. It was not entirely legislatively clear whether the Tribunal was as constrained as the Commissioner should the conduct be found to be out of time as set out in Section 81(2)(c). That now has no significance.

13. In the amended legislation the principles set out in Section 81 are now encapsulated in Division 4.5 of the Human Rights Commission Act 2005. Section 78(1) gives the Commissioner the discretion to close a complaint if "more than 2 years have elapsed since the circumstances that gave rise to the complaint happened". Section 99 of the Act provides for decisions to be made by the tribunal following a hearing of a complaint. The tribunal is not given the power to decline a complaint that is time barred as is contained in Subsection 78(1). The legislative intent is obviously that the Commissioner is to have the discretion to decline a complaint that alleges conduct outside the stipulated time frame and, if that discretion is exercised adversely to the complainant, the matter may be referred to the Tribunal. The Tribunal must hear the complaint and reach a decision excluding any consideration of the length of time that has elapsed since the commission of the conduct complained of.

14. Counsel for the applicants submitted that the Tribunal had the discretion to decline a complaint where the time from the commission of the acts forming the basis of the complaint was so remote as to make it unfair to allow the complaint to continue. That is not a submission upon which I have to rule, in this matter.

15. The other preliminary point that was before me concerned the nature of the complaint referred to the Tribunal. Under Section 80 of the Human Rights Commission Act 2005, which is not significantly different in terms to similar provisions in the unamended Discrimination Act 1999, where the Commissioner proposes to close a complaint a written report must be furnished. That report must contain a statement informing a complainant that he or she may ask the Commission to refer the complaint to the Discrimination Tribunal. Section 53 of the Act makes it mandatory for the Commission to refer the complaint to the Tribunal, if requested by the complainant to do so. In my view, the hearing of a complaint by the Tribunal so referred must be restricted to the complaint before the Commission. The Tribunal has no discretion given it under the Act to allow any variation.

16. The Equal Opportunity Tribunal of Western Australia in *Kay Chaisty and City of Perth* [2004] WAEOT 3 considered this point and came to a similar conclusion, in relation to legislation that was not dissimilar to the legislation applicable in this matter, saying that it lacked jurisdiction to deal with matters that were not the subject of investigation before the Commissioner.

17. The initial difficulty with this matter was endeavouring to distil exactly what it was that the respondent's claim was. In the original claim form dated 29 November 2005, relating to Dr Kennett, it was claimed, as I have previously said, that she had treated the claimant unfavourably because of his psychological disability in the area of education. It was claimed that the

Doctor did not respond to attempts at communication and made allegations against the complainant "as gossip to other academics and to students, never retracting them". It was said that these were continuing discriminatory actions. He indicated that the unfavourable treatment made him "unwelcome in the local, national (and international) philosophical community" and indicated that to resolve his complaint, "I would like Jeanette Kennett to have whatever she wants from me (presumably, nothing ever again) but in such a way that my vocational and social preferences are not eternally undermined".

18. In the *Chaisty* matter, the Tribunal had to consider what it was that comprised the complaint before the Commissioner and said:

> *"The complaint referred to in Section 107(3) of the Act is the complaint into which the Commissioner enquired: Section 84 of the Act. The complaint is not only the initial complaint but also the complaints made by the complainant during the course of the Commissioner's investigation."*

19. The complaints concerning Dr Kennett as investigated by the Commissioner are set out in her letter of 1 May 2006 to the respondent and have obviously been distilled from the original complaint form and further correspondence between the Commissioner and him. In that the Commissioner says:

> "*In your complaint form you tell me Dr Kennett has treated you unfavourably by not responding to your attempts at communication, and by ostracising you because of your psychological disability. You also tell me Dr Kennett "makes allegations against (you) not as formal complaints…but as gossip to other academics and to students…". You say you first met Dr Kennett in 1990 when you were at Monash University studying for an Arts degree majoring in Philosophy, and she was your tutor in first semester of 1990. You also say "Jeanette Kennett (and Monash) became aware that (you) suffered depression around February 1995". You alleged Jeanette Kennett took part in the making of a group-discussion in early 1995 by the philosophy lecturers at Monash University to ostracise you indefinitely, and that decision is in place today.*
>
> *You claim another reason for Dr Kennett's alleged ostracism is "because of (discrimination) complaints (you) were making against her colleagues". You say the "relevant (proposed or actual) complaints" on which you case your victimisation complaint "are against the A.N.U (especially against the A.N.U philosophers: Frank Jackson, Michael Smith, Philip Pettit, Rae Langton, and so on), and against Monash University (especially against the Monash philosophers: John Bigelow, Jeanette Kennett, Rae Langston, and so on)". I understand you are also claiming "misleading allegations" against you also continue victimisation.*
> *You tell me the effect of the alleged unfavourable treatment is that you are "unwelcome in the local, national (and international) philosophical community". You also tell me that you "cannot help feeling that eternal ostracism is unreasonable and excessive".*

20. Similarly, the complaints concerning Dr Laugesen are set out by the Commissioner as:

In your complaint form you tell me Dr Laugesen has treated you unfavourably by not giving you "enough reasonable consideration to (your) disability in her dealings with (you)…(and) contributed to (your) sense of ostracism by creasing to communicate with (you.)" You also tell me Dr Laugesen "stopped communicating with (you) because you lodged a complaint with the ANU Equity and Diversity Unit in July 2002 against (your) co-workers, including (Dr Laugesen)". You tell me "Deborah White (ANU Human resources) seems to have advised the Dictionary people ((your) former co-workers) not to 'engage' with (you) (2002) sometime) (and you) never heard from Amanda ever again (well, hardly ever, and it wasn't the same)."

You tell me the effect of the alleged unfavourable treatment is that you "lost Amanda" and this loss "is the most hurtful".

21. The respondent filed a document with the Tribunal in response to the Directions given by Deputy President Peedom on 6 December 2006. This document is dated 15 January 2007 and filed on 16 January 2007. The applicants filed a revised application to strike out the respondent's complaint in each matter and the respondent filed an answer to that application on 13 February 2007. He filed a document, being submissions to the Tribunal on the hearing of these applications.

22. Given the content of those documents and cognisant of the High Court's observations in *Neil –v- Nott and another (1994) 121 ALR 148 at 150* where it said in a joint judgment:

"*A frequent consequence of self-representation is that the Court must assume the burden of attempting to ascertain the rights of parties which are obfuscated by their own advocacy*"

I sought to have the respondent express with clarity and brevity what it was that he was complaining of. In so far as the complaint against Dr Kennett was concerned, he said that he alleged that she ostracised him and spoke ill of him to others within the Australian National University, because of his psychological disability and this led to the University declining to accept his application for readmission as a student in December of 1996.

23. In so far as the complaint against Dr Laugesen is concerned, the respondent again alleged that she had ostracised him and spoke ill of him to others within the Australian National University, because of his psychological disability and this led to the University to decline to continue to employ him.

24. In each case the respondent alleged that the applicant had aided and abetted the University by her conduct and, as I understand the submission, this conduct of the University amounted to unfavourable treatment as set out in the definition of *discrimination* within Section 8 of the Act. This is not something that he had directly asserted previously, although, he submitted it could be gleaned from his filed documentation.

25. Section 73 of the Discrimination Act 1991 provides:

> "*A person who aids, abets, counsels or procures someone else to do an act that is unlawful under part 3, part 5, Section 66 or part 7 is taken, for this Act, also to have done the Act."*

Unlawful discrimination is contained in part 3 of the Act.

26. Counsel for the applicants submitted that I shouldn't allow the respondent to put his case in this way before the Tribunal as it was not the complaint referred to it by the Commissioner. I am of the view that I should allow it to be so put. I do so on the basis that it can be seen from the correspondence contained in the "T" documents that an inference can be drawn that the respondent was alleging this, particularly when the filed chronology is examined.

27. There is no definition within the Act of the words "aid, abet, counsel or procure". I am of the view that the words should be given their ordinary meanings and not have attached to them legislative definition found in other Territory legislation. The elements of aiding and abetting were succinctly stated by Hunt CJ at CL in *Holloway –v- Gilport Pty Ltd (1995) 79 A Crim R 76 at 89:*

> *"In Giorgiannni (1985) 156 CLR……it was held by the High Court that, in order to establish that one person is an accessory to the commission of an offence by another person by aiding and abetting him, the prosecution must establish:*
>
> *i. the commission of that offence by the principal offender, and*
> *ii. that the accused was present at the time when the offence was committed, and*
> *iii. that (subject to an exception which is immaterial here) the accused knew all the essential facts or circumstances which must be established by the prosecution in order to show that the offence was committed by the principal offender (whether or not the accused knew that they amounted to an offence), and*
> iv. *that, with that knowledge, he intentionally assisted or encouraged the principal offender to commit that offence. The accessory's intention to assist or encourage the principal offender must be based upon that knowledge."*

28. On the hearing of an application under Section 79 of the Discrimination Act 1991 the principles to be applied are set out by Deputy President Peedom in the matter of Firestone and Legal Aid Office (ACT) [2006] ACTDT 3:

> *10. In determining whether a complaint should be struck out pursuant to Section 89 of the Act, the Tribunal ordinarily accepts that it should be assumed that the factual allegations relied upon by the complainant are true and such inferences in favour of the complainant as are open should be drawn. If, however, it is clear beyond doubt that the complainant has no arguable case which should be allowed to be resolved at a full hearing, a complaint may be dismissed as lacking in substance* (see State Electricity Commission v Rabel & Ors [1997] EOC 92/875).

> *11. The power to dismiss a claim as without substance is required to be exercised with considerable caution.(see* Clean Ocean Foundation v Environment Protection Authority (2003) VAR 227 at 230-231. See also Lucy Couper and ACT Housing DT03/18 dated 22 June 2004)"

29. Allowing that the facts alleged by the respondent are true, viz that each applicant ostracised the respondent and spoke in a non favourable way concerning him to others employed by the Australian National University and that the University refused to allow him to re-enrol in a course and that he was refused employment, I am asked to draw an inference from the evidence before me. The inference being that the decision of the University was taken in each matter with each applicant aiding, abetting, counselling or procuring the University to do so. Further, I am asked to infer that the conduct of the University in refusing to re-enrol the respondent or employ him was because of his psychological disability. It is clear from the evidence, that with some justification, there is an inference to be drawn that the conduct of the applicants was symptomatic of interpersonal grievances between the parties.

30. The distinction between conjecture and inference is often difficult to draw as was said by Lord McMillan in *Jones v Great Western Railway Co* [1930] 144 LT 194:

> *"The dividing line between conjecture and inference is often a very difficult one to draw. A conjecture may be plausible, but is of no legal value, for its essence is that it is a mere guess. An inference in the legal sense, on the other hand, is a deduction from the evidence, and if it is a reasonable deduction it may have the validity of legal proof."*

31. In order for the inference to be drawn, as requested by the respondent in each matter, there must be credible evidence from which it might be so drawn. The respondent submitted that Dr Kennett has engaged in conduct that has aided, abetted or counselled the Australian National University in it's decision not to allow him to re-enrol in a Ph.D course in December 1996 and that this continues. It is alleged that this amounted to discrimination against him on the basis of his psychological condition. There was no evidence put before the Commission or the tribunal of this condition. I am prepared to accept that the respondent suffers from some psychological condition.

32. There is evidence that Dr Kennett was not in the Australian Capital Territory in 1995 when the respondent was refused permission to re-enrol. It was submitted that the applicant could not have aided and abetted or be guilty in some way "accessorially" in the conduct of the University as she was not within the jurisdiction. In my view it is not necessary to grapple with this concept. What the applicant asks is that I draw an inference that he was declined re-enrolment because of his psychological disability. As I have said, to draw an inference there must be proven evidence. There is absolutely no evidence that the University declined the applicant's application because of his psychological condition or indeed that it continues to do so because of this. The applicant submitted that this evidence was in the hands of the University and given an opportunity he would seek to rely upon it at a hearing of his

complaints. The respondent has been given an opportunity to produce the evidence upon which he grounds his complaint and directions to this effect were given by Deputy President Peedom. That evidence discloses nothing from which that inference could be drawn.

33. Further, there is no evidence from which an inference could be drawn that the University generally or, more specifically, the decision maker was aware of the fact that the applicant had "ostracised" the respondent or knew of the content of conversations concerning him. Even if there was such evidence it would be necessary to show that he acted on those facts in declining the application for re-enrolment.

34. I am of the view that the respondent in his complaint against Dr Kennett, of engaging in conduct that was and continues to be unfavourable towards him because of his psychological disability, has *"no arguable case which should be allowed to be resolved at a full hearing"*.

35. The respondent alleged at the hearing that Dr Laugesen had ostracised him and spoke ill of him to others within the Australian National University and thereby in some way aided, abetted or counselled the University in declining to renew a contract of employment with him. The respondent pointed to a date in 2001 when he said that he had been "bullied" by an employee of the University and in November of that year left his employment briefly, finally ceasing employment in late 2002.

36. This complaint against Dr Laugesen must suffer the same fate as that relating to Dr Kennett. There is no evidence of any nexus between the conduct of Dr Laugesen, even taking it at its highest and accepting the truth of the allegation, and the decision of an employee of the Australian National University not to renew the respondent's contract of employment.

37. The respondent has alleged that the discrimination against him was in the area of employment. As I understand it, this is an allegation that the Australian National University has discriminated against the respondent "*in deciding who should be offered employment"* (s10(1)(b) Discrimination Act 1991) and that as a result of her conduct in ostracising him and speaking ill of him to others because of his psychological disability this has aided, abetted or counselled the University in so acting. It is alleged that the University continues in its conduct, in declining to employ the respondent.

38. I note that Dr Laugesen took up employment with the University of Southern Queensland at the beginning of February 2004.

39. Adopting the submission of Counsel for Dr Laugesen:

> "As Justice Connolly pointed out in Davies v Hawthorn [2004] ACTSC 119 (22 November 2004) at paragraph 7,well established principles about strike out are that:
>
> > *"the applicant will succeed only if they establish that, even on the version of facts pleaded by a plaintiff, the substantive action 'discloses a case which the court is satisfied cannot*

succeed' (per Barwick CJ), General Steel Industries Inc v Commissioner for Railways (NSW) (1964) 112 CLR 125 at 129)."

I am of the view that the respondent cannot succeed in his complaint against Dr Laugesen.

40. The respondent has, in his complaint, alleged victimisation against both Dr Kennett and Dr Laugesen "because I made or supported a discrimination complaint". Section 68 of the Discrimination Act 1991 forbids the unlawful act of victimisation and provides:

> *"(1) It is unlawful for a person (the first person) to subject someone else (the other person) to any detriment because-*
>
> *(a) the other person has –*
>
> *(i) begun a proceeding under this Act; or*
>
> *(ii) given evidence, or produced a document or thing, to the tribunal; or*
>
> *(iii) reasonably asserted any rights that a person (including the other person) has under this Act; or*
>
> *(iv) claimed that a person has committed an act that is unlawful under this Act; or*
>
> *(b) the first person believes that the other person proposes to do something mentioned in paragraph (a).*
>
> *(2) Subsection (1)(a)(iv) does not apply in relation to a claim that is false and is not made honestly."*

41. The respondent has alleged that Dr Kennett has, in early 1995, made a decision with others to ostracise him and continues with that conduct to this day. He claims that one such reason for this is that he made "discrimination complaints" against her colleagues.

42. In so far as Dr Laugesen is concerned, the respondent alleged that the Dr *"stopped communicating with me because I lodged a complaint with the ANU Equity and Diversity Unit in July 2002".* During submissions it became clear that the respondent had commenced proceedings under this Act sometime in 2003. That matter is presently part heard before the Tribunal President. He also commenced proceedings under the Act in November 2005, an interlocutory proceeding being before Deputy President Peedom in which he delivered judgment on 26 February 2007.

43. The allegation of victimisation against both Dr Kennett and Dr Laugesen must fail. Any decision that either Dr took to, personally or in a group, ostracise the respondent is not conduct that is prohibited by the Act. There is no evidence that any such decision was taken to bring it within the purview of Section 10 of the Act.

44. In the circumstances, for the reasons set out, I am satisfied that the applicant in each case has met her onus of proof and I therefore order that each complaint be struck out on the ground that it lacks substance.

I certify that this and the 11 preceding pages are a true copy of the decision and reasons for decision herein of Mr G C Lalor, Deputy President.

Ms M Mulquiney, Associate
Dated: 27 June 2007

AUSTRALIAN CAPITAL TERRITORY
DISCRIMINATION TRIBUNAL

APPEARANCE DETAILS

FILE NO: DT 393 & 394 of 2006

COMPLAINANT:	MICHAEL FIRESTONE	
RESPONDENTS:	DR AMANDA LAUGESEN DR JENETTE KENNETT	
COUNSEL APPEARING:	**COMPLAINANT:** **RESPONDENT:**	
SOLICITORS:	**COMPLAINANT:** **RESPONDENT:** MS MARGOT BROWN, AUSTRALIAN NATIONAL UNIVERSITY LEGAL OFFICE	
OTHER:	**COMPLAINANT:** **RESPONDENT:**	
TRIBUNAL MEMBER:	MR G C LALOR, DEPUTY PRESIDENT	
DATE OF HEARING:	21 June 2007	**PLACE:** CANBERRA
DATE OF DECISION:	27 June 2007	**PLACE:** CANBERRA

COMMENT: