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REASONS FOR DETERMINATION

Applications for Compensation of Barry CATT

The applicant claims in respect of acts of violence committed against himself by his wife Roseanne Catt on 2/5/88, 12/3/89, 5/5/89, & May-August 1989.

For reasons which will become apparent I propose to make one composite award in these matters encompassing all the acts of violence. While the physical injuries sustained may be able to be separated, the psychiatric effects upon the applicant cannot be proportioned between the four separate incidents and the psychiatric/psychological reports deal with the effects upon the applicant of all the incidents. The applicant's solicitors themselves in their letter of 17/3/95 submit that "the Tribunal should have regard to the overall effect on our client's psychiatric condition of the combination of all of these incidents when assessing appropriate compensation."

2/5/88 - Hit with Rock

On 2/5/88 the applicant was hit over the head with a rock by Roseanne Catt. A report dated 19/12/94 from the Lower North Coast Health Service reports that the applicant suffered a small laceration to the scalp which required sutures, a headache and a swollen right cheek. There was no fracture.

12/3/89 - Stabbing

On 12/3/89 while at a picnic with Roseanne Catt he was stabbed by her in the left side just below the ribs. The medical evidence concerning the applicant's physical injuries is virtually non-existent and comes from the transcript of the trial at pp. 864-865 from evidence given by Dr Goddard. It appears that the applicant's physical injuries were not very serious because he did not apparently consult a doctor. Rather Dr Goddard, a friend and an anaesthetist, went to the applicant's house to get some advice about a car. He only cursorily examined a wound, being on the lower left chest and Dr Goddard said that it seemed the wound would have been more

than a few days old. It appears Dr Goddard made this visit on 20/3/89, some 8 days after the incident.

5/5/89 - Cricket Bat assault

On 5/5/89 the applicant was assaulted in his office by Roseanne Catt with a cricket bat. The applicant states he was hit on the hand as he put up his arms to protect his head and he was also struck under the right eye and eyebrow. The only medical evidence submitted is again virtually non-existent. There is a photocopied, unsigned report from a Dr Thomas who reports that the applicant consulted him on 11/5/89, 6 days after the alleged incident, complaining of difficulty in speaking, double vision and diarrhoea. Dr Thomas made a provisional diagnosis of Lithium overdose which the applicant was taking for a psychiatric condition. Again, the physical injuries do not appear significant as the applicant did not even consult a doctor until 6 days after the incident and the doctor did not attribute the symptoms to the assault.

May - August 1989 - Poisoning

Between May and August 1989 Roseanne Catt interfered with the applicant's medication and caused him to take more Lithium and Clonazepam than he should have been taking by spiking the contents of bottles of milk and orange juice. Again, the medical evidence is extremely sparse. Dr Goddard in his police statement of 2/11/89 simply refers to meeting the applicant about 4 months before and noting his speech was slurred and his eyelids tended to droop. Dr Goddard does not attribute this to the overdosing; all he does is make an observation as to the demeanour of the applicant. There is also a one page copy of a Discharge Report of the Manning River District Hospital from which it appears that the applicant was admitted on 11/5/89 and discharged one day later on 12/5/89 (the form appears to state 12/5/88). All that Discharge Report shows is that the applicant presented with diplopia (double vision) and ataxia (shaky movements and unsteady gait), with a diagnosis of Lithium toxicity. This Discharge Summary relates to two days only in May 1989 when of course the "poisoning" allegedly took place over several months from May to August 1989.

Summary of physical injuries established:

As will be seen from above, the medical evidence before this Tribunal as to the physical injuries suffered by the applicant is extremely sparse, if not almost non-existent.

In the first "rock incident" the applicant suffered a small scalp laceration, headache and swollen right cheek.

In the second "stabbing" incident, the applicant apparently did not seek medical attention at the time of the incident and only showed the wound to a doctor friend who was visiting some 8 days after the incident and the evidence does not even causally relate the wound seen 8 days later to the incident itself.

In the third "cricket bat assault" the applicant did not consult a doctor for 6 days and even then the doctor thought the symptoms related to a Lithium overdose rather than to the assault. The unsigned brief medical report does not causally relate the applicant's symptoms to the assault 6 days earlier and in the light of the drug overdose which commenced about that time, it may very well be that the symptoms displayed by the applicant did relate to drug overdoses rather than the assault.

In the fourth "poisoning" incident, again the evidence is virtually non-existent with a doctor merely making an observation as to the applicant's demeanour and a hospital Discharge Summary noting double vision and ataxia. There is no medical evidence submitted to establish just what the whole effects of the drug overdoses over many months were upon the applicant.

In summary, the medical evidence submitted in respect of physical injuries sustained by the applicant does no more than establish relatively minor injuries.

The psychiatric/psychological injuries suffered as a result of all four incidents:

As stated above, it is impossible to discern any separate psychiatric/psychological injury arising from each of the incidents and the applicant's solicitors have submitted that "the Tribunal should have regard to the overall effect on our client's psychiatric condition of the combination of all of these incidents when assessing appropriate compensation."

The psychiatric evidence submitted consists of reports from Dr Sandfield, psychiatrist, dated 19/5/94 & 20/5/94 and Ms Barrier, psychologist, dated 17/3/95.

Dr Sandfield refers to the applicant having suffered a "Bipolar Manic Depressive Psychosis" since September 1987, prior to the first act of violence established. All Dr Sandfield says is that "these incidents have certainly aggravated Barry's psychosis."

Ms Barrier was only consulted once for the purposes of a report for Victims Compensation and is not the applicant's treating practitioner. Ms Barrier reports a severe and chronic post-traumatic stress disorder directly attributable to the effects of the incidents.

I have taken into account all the medical evidence, both physical and psychiatric, referred to above. It must again be said that the medical evidence is sparse. It must also be borne in mind that this Tribunal makes awards based upon injuries which have been established and the details or circumstances of an act of violence or acts of violence are not relevant in assessing an award, except in so far as they explain and impact upon the applicant's injuries. The applicant's solicitors have submitted voluminous material as to the "extraordinary circumstances surrounding client's applications and is highly relevant to each claim" (solicitors' letter of 20/3/95). With respect to the solicitors, while the circumstances of this matter are certainly extraordinary, they are not relevant in assessing an appropriate award of compensation, except, as I said, in so

far as they explain and impact upon the injuries actually suffered by the applicant.

Loss of Income:

A claim is made for loss of income. Again, the evidence to support any such claim is non-existent.

Firstly, there is no medical evidence whatsoever to establish that any of the incidents had an effect upon the applicant's ability to work.

Secondly, the claim has not even been quantified. The applicant's solicitors have done no more than to submit an accountants' report from Crossman Brown & Jolly dated 10/3/95. That report annexes copies of financial records but does not even quantify any alleged loss of income nor the period for which loss of income is claimed.

Thirdly, that accountants' report does not substantiate any loss of income. All it says is that the applicant's business earned less in 1989 and that

"I have practised as an accountant in this area since 1984 and I know of no economic reason for the slump in 1989. Certainly other businesses in this district have not experienced similar declines in income."

It is naive in the extreme to expect that statement to establish that any decline in income of the applicant's business is directly related to the incidents.

Fourthly, it should also be noted that the applicant carried on business under either a business name or a corporation. Losses incurred by a business or corporation are not compensable, only a loss of earnings of the applicant personally. There is no evidence before this Tribunal that the applicant suffered a personal loss of income.

By your
[Signature]

22/3/95

