ACT CIVIL & ADMINISTRATIVE TRIBUNAL

CRISTIAN v BOTTRILL (Appeal) [2016] ACAT 104

AA 18/2016 (XD 741/2014)

Catchwords: **APPEAL – Civil Dispute** – Defamation claim – review of decision on questions of fact and law – nature of appeal – no questions of fact or law identified

Legislation cited: *ACT Civil and Administrative Tribunal Act* 2008 ss 71, 82
ACT Human Rights Act 2004 ss 12, 16
Civil Law (Wrongs) Act 2002 s 139B

Subordinate Legislation: *Court Procedure Rules 2006* r 2150

Cases cited: *Bottrill v Cristian & Anor* [2016] ACAT 7
Cassidy v Daily Mirror Newspapers [1929] 2 KB 331
Lee v Wilson and McKinnon (1934) 51 CLR 276
Legal Practitioner v Council of the Law Society of the ACT [2011] ACTSC 207
Lewis v Daily Telegraph [1964] AC 234
The Legal Practitioner v Council of the Law Society of the ACT [2015] ACTCA 20
The Legal Practitioner v Council of the Law Society of the ACT (No 2) [2014] ACTSC 9
Theodorelos v Nexus Projects Pty Ltd [2009] ACTSC 149

Appeal Tribunal: President L Crebbin
Senior Member B Meagher SC

Date of Orders: 12 September 2016
Date of Reasons for Decision: 12 September 2016

AUSTRALIAN CAPITAL TERRITORY)
CIVIL & ADMINISTRATIVE TRIBUNAL) AA 18/2016
(XD 741/2014)

BETWEEN:

FIONA CRISTIAN
Appellant

AND:

DAVID BOTTRILL
Respondent

Appeal Tribunal: President L Crebbin
Senior Member B Meagher SC

Date: 12 September 2016

ORDER

The Tribunal orders that:

1. The order of the original tribunal dated 10 February 2016 is confirmed.

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President L Crebbin for and on behalf of
the Appeal Tribunal

REASONS FOR DECISION

Procedural history

1. In 2014 David Bottrill filed an application in the ACT Civil and Administrative Tribunal ('ACAT' or the 'tribunal') against the appellant and her husband Arthur Cristian, alleging that they had defamed him on a website known as http://loveforlife.com.au. He sought damages, an apology and an order that the alleged defamatory material be removed from the website. When the application was heard neither the appellant nor Arthur Cristian were present. An order was made in their absence (that is, ex parte) requiring them to pay damages of $10,000 and costs of $130 to David Bottrill. They were also ordered to remove the material from the website.

2. We note here that the appellant asked us, for reasons of principle, to refer to her as 'Fiona' and we do so. It is convenient also then to refer to David Bottrill as 'the respondent' or as David.

3. Fiona lodged an appeal in the tribunal but it was dismissed. Fiona then appealed to the Supreme Court. The Court allowed her appeal because it was not satisfied that she had been notified of the first hearing. The Court sent the matter back (or remitted the matter) to the ACAT for another hearing. Arthur Cristian did not appeal and the initial decision against him stands.

4. Another hearing was held on 21 October 2015. We refer to this as the original hearing. Fiona participated in this hearing by telephone. The tribunal handed down its decision with written reasons on 10 February 2016. It was satisfied that David had been defamed. It made orders awarding him damages of $10,000 and costs of $130, payable within 28 days. An order was also made that the defamatory material be removed from the website. This is referred to as the 'original decision'. It is reported as *Bottrill v Cristian & Anor* [2016] ACAT 7. The procedural history summarised above is more fully set out in the original decision at paragraphs 19 -34.

5. On 9 March 2016 Fiona filed an appeal against the original decision. On 23 March 2016 the original decision was stayed by consent until the appeal was decided.

6. The appeal hearing took place on 13 July 2016 with both Fiona and David participating in person. For the reasons set out below, the Appeal Tribunal has decided that it must dismiss the appeal and confirm the original decision.

Previous cases

7. Before these proceedings in ACAT, David and an organisation of which he is a member, the Ordo Templi Orientis (OTO), had brought claims in the Victorian Civil and Administrative Tribunal (VCAT) and the ACT Magistrates Court against other defendants for similar defamations. Essentially, these other defendants had said that the organisation and David were involved in horrendous crimes against children. In those three cases the defendants were found to have defamed the claimants and were liable to them. A more detailed explanation of the cases is set out in the original decision at paragraphs 7-16.

The original decision

8. The tribunal found that the material which VCAT and the ACT Magistrates Court said was defamatory in the previous cases had been posted on the website http://loveforlife.com.au. Fiona gave evidence by affidavit that she was the owner of the website. She did not post the material herself - another person did that. But, as the owner of the website she was responsible for the material posted on it.

9. The tribunal listed the elements that have to be established for a claim of defamation under ACT law and found that the material contained extremely damaging imputations concerning David. It had been published by Fiona because she allowed it to be posted and to remain on her website. The tribunal found that the publication was extensive, relying on information about the number of visitors to the site.

10. The arguments made by Fiona at the original hearing are summarised at paragraph 47 of the original decision. The tribunal interpreted her contentions as raising a defence of honest opinion and of a right to freedom of speech.

11. Section 139B of the *Civil Law (Wrongs) Act 2002* details defences available to the publication of defamatory material where the material complained of is an

expression of opinion related to a matter of public interest and where the opinion is based on ‘proper material’. The section provides:

> ***139B Defences of honest opinion***
>
> *(1) It is a defence to the publication of defamatory matter if the defendant proves that—*
>
> *(a) the matter was an expression of opinion of the defendant rather than a statement of fact; and*
>
> *(b) the opinion related to a matter of public interest; and*
>
> *(c) the opinion is based on proper material.*
>
> *(2) It is a defence to the publication of defamatory matter if the defendant proves that—*
>
> *(a) the matter was an expression of opinion of an employee or agent of the defendant rather than a statement of fact; and*
>
> *(b) the opinion related to a matter of public interest; and*
>
> *(c) the opinion is based on proper material.*
>
> *(3) It is a defence to the publication of defamatory matter if the defendant proves that—*
>
> *(a) the matter was an expression of opinion of a person (the* **commentator***), other than the defendant or an employee or agent of the defendant, rather than a statement of fact; and*
>
> *(b) the opinion related to a matter of public interest; and*
>
> *(c) the opinion is based on proper material.*
>
> *(4) A defence established under this section is defeated if, and only if, the plaintiff proves that—*
>
> *(a) in the case of a defence under subsection (1)—the opinion was not honestly held by the defendant at the time the defamatory matter was published; or*
>
> *(b) in the case of a defence under subsection (2)—the defendant did not believe that the opinion was honestly held by the employee or agent at the time the defamatory matter was published; or*
>
> *(c) in the case of a defence under subsection (3)—the defendant had reasonable grounds to believe that the opinion was not honestly held by the commentator at the time the defamatory matter was published.*
>
> *(5) For the purposes of this section, an opinion is based on* **proper material** *if it is based on material that—*
>
> *(a) is substantially true; or*
>
> *(b) was published on an occasion of absolute or qualified privilege (whether under this Act or at general law); or*
>
> *(c) was published on an occasion that attracted the protection of—*
>
> *(i) a defence under this section, section 138 (Defence for publication of public documents) or section 139 (Defences of fair report of proceedings of public concern); or*

(ii) the defence of fair comment at general law.

(6) An opinion does not cease to be based on proper material only because some of the material on which it is based is not proper matter if the opinion might reasonably be based on such of the material as is proper material.

12. No evidence was called by Fiona at the original hearing that provided any grounds for a conclusion that the imputations were substantially true or that she held an 'honest opinion' to that effect.

13. The respondent called Professor Ezzy who is a professor of sociology at the University of Tasmania. He was cross examined by Fiona. His evidence was accepted by the tribunal. His evidence was that the Ordo Templi Orientis (OTO) was not involved in the activities asserted in the complained of material. The tribunal decided that there was no defence of honest opinion available to Fiona.

14. The tribunal considered Fiona's submissions about the right to free speech, or freedom of expression, which for the ACT is contained in section 16 of the *Human Rights Act 2004.* The tribunal noted that rights are not absolute and noted also the right to privacy and the right not to have reputation unlawfully attacked contained in section 12 of the *Human Rights Act 2004*. The tribunal found that the provisions of the *Civil Law (Wrongs) Act 2002*, providing remedies for people whose reputations are attacked by the publication of defamatory material, are not inconsistent with freedom of expression and do not place unreasonable limits on free speech.

15. The tribunal was satisfied that there was no defence available to Fiona and that she was liable to the respondent. The tribunal considered the potential quantum, or value, of general damages for injury to feelings and reputation, the constraints imposed by the *Civil Law (Wrongs) Act 2002* and the $10,000 limit of ACAT's jurisdiction in civil dispute matters. The tribunal found that damages were aggravated in this case because the material was reposted after the initial ex parte orders were made. The failure to apologise and other post-complaint conduct also established a failure to mitigate the injury and damages. The value of the damages was not expressly identified by the tribunal as being a particular sum, but rather the tribunal made an order allowing the full amount of its

jurisdiction as damages. It is open to infer that the damages could have been more if the jurisdictional limit allowed it.

Nature of Appeal

16. Section 82 of the *ACT Civil and Administrative Tribunal Act 2008* requires an appeal tribunal to decide to deal with an application for appeal as a new application, or as a review of all or part of an original decision. Refshauge J explained the operation of section 82 in *The Legal Practitioner v Council of The Law Society of The ACT* (No 2) [2014] ACTSC 9 at [49] and [50].[1]

17. Given the lengthy history of this matter and the broad ranging and general nature of Fiona's grounds for appealing the original decision, it is appropriate to deal with the appeal as a review of the original decision. As explained by Justice Refshauge, this is a rehearing described in *Theodorelos v Nexus Projects Pty Ltd* [2009] ACTSC 149 at [78] as follows:

> *Appeal by way of rehearing is also one where the appeal court must determine whether the decision of the body from which the appeal is taken is wrong, by that body falling into error of law, making a finding of fact that is clearly wrong or exercising a discretion on a wrong principle or in a way that is clearly wrong. Ordinarily, however, facts found based on the assessment of witnesses will not lightly be overturned. The appeal court usually has power to receive further evidence, though this is ordinarily subject to some restrictions. The appeal court may also draw inferences itself from primary facts found by the body from which the appeal is taken. The decision, however, is not restricted to making the decision that should have been made by the body from which the appeal is taken but in determining it the appeal court must have regard to the circumstances which exist at the time of the appeal and by making its own decision on these circumstances.*

Grounds of Appeal

18. In the original Notice of Appeal dated 8 March 2016 Fiona listed the following points:

> *1. David Bottrill claims to be concerned about his reputation but his actions show clearly that he is more interested in $10,000.*

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[1] This approach was also followed in *Legal Practitioner v Council of the Law Society* (ACT) [2011] ACTSC 207 ; (2011) 257 FLR 118, affirmed on appeal: *The Legal Practitioner v Council of the Law Society of the ACT* [2015] ACTCA 20

2. *David Bottrill willingly put his name in the public domain on behalf of the Ordo Templi Orientis, a commercial organisation. I am entitled to criticize an organisation in the public domain.*

3. *Anyone who willingly associates with Thelma and the work of Aleister Crowley can expect to be associated with satanism, rituals, sexual depravity, whether Aleister Crowly was involved in this or not.*

4. *As explained in the attached document, the Ordo Templi Orientis is clearly engaged in the practise of inculcation which is satanic in nature as it is anti-life, the trampling of souls.*

5. *I cannot afford to pay David Bottrill $10,000. If the fine is not removed, I am seeking to have it reduced to an amount that I can reasonably afford to pay off.*

19. In accordance with directions of the Appeal Tribunal, an amended application was filed on 6 April 2016 which added no new grounds but attached a statement by Fiona containing a number of conclusions and opinions based on other material that was not in evidence. On 10 May 2016 Fiona filed a further document which set out her beliefs and explained why the decision would cause harm if allowed to stand.

20. The material did not expressly identify errors made in the decision appealed from.

Respondent's material

21. The respondent filed submissions on 6 June 2016. He interpreted Fiona's material as a claim that he has a bad reputation by association. He isolated the issues that he saw arising from her documents as an inability to pay, an allegation that he had an improper motive (money rather than reputation) which might be asserted to be an abuse of process, and bad reputation. He set out a response to each issue.

Oral submissions at the hearing

22. First, Fiona asked the Appeal Tribunal to set aside or reduce the award of damages as a matter of fairness. She indicated that for her $10000 was a lot of money and it would take years to pay off. She cannot afford to pay this amount to the respondent.

23. Secondly, she said that the tribunal made an error of fact or law in finding the material complained of was defamatory because the material criticises OTO and not the respondent.

24. Thirdly, she said that it was permissible to critique OTO as it was a commercial organisation.

25. Fourthly, it was submitted that any damages awarded should be reduced because it is known that the respondent is implicated in the affairs of OTO and there is a public perception that this is a satanic organisation which is unsavoury because of its association with Aleister Crowley. It was submitted that Crowley was guilty of the numerous depravities attributed to OTO in the public perception. Fiona, however, said she didn't know herself that Crowley had in fact participated in those activities.

26. Fifthly, it was submitted that Fiona did not intend to defame the respondent and she had done what any reasonable person might do, taking down the offending post within three weeks of the first request from the respondent and after checking with the person who had posted the information whether he had any proof of the matters stated.

27. Sixthly, Fiona submitted that she did not engage in conduct that aggravated the damages.

28. Seventhly, the tribunal's acceptance of the evidence of Professor Ezzy was questioned. He had said that Crowley was misunderstood about a reference to child sacrifice and was parodying Catholic teachings concerning the presence of life in each ejaculation. Ezzy also said in any event that OTO rejects the idea of human sacrifice and that contemporary Thelemite[2] practices and belief are different in important ways from the beliefs and texts of Crowley. Fiona submitted that this opinion was inconsistent with Crowley's writing. In support Fiona sought to adduce further evidence. The respondent opposed this as it was said not to be sourced from identifiable or reliable sources and was not cogent. The new material was appended to the appeal and more was filed subsequently.

[2] A name used by OTO

29. Eighthly, it was submitted that the respondent was motivated by money and was not being reasonable in pursuing the matter.

Consideration

The first issue

30. Inability to pay is not a defence to a defamation claim and is not relevant to the assessment of damages. Fiona was told that the tribunal must decide the application in accordance with the law and that her financial situation was not a defence per se. The enforceability of tribunal judgments is governed by section 71 of the *ACT Civil and Administrative Tribunal Act 2008* which in turn applies the *Court Procedure Rules* regarding enforcement. Rule 2150 allows a judgment debtor to seek to pay a debt by instalments. Ability to pay is a factor in the Court's discretion should such an application be made but not something that the tribunal can consider when deciding an application.

The second issue

31. The original decision contained extensive references to Exhibits A1 and A2 which contain the material complained of. In the original hearing the respondent took the Tribunal through the exhibits and stated what parts were relevant. This can be seen in the transcript of 21 October 2015 at pages 15 – 40. Exhibit A1 was the application by David with annexures containing the complained of material. Exhibit A2 was tendered by David at the hearing. It refers to posts made by Arthur Cristian using his own name and Fiona's after the proceedings were commenced. It is not proposed to set out all the offending material as to do would draw further attention to the defamatory statements.

32. The pages in Exhibit A2 identified were:

(a) Page 1 – showing that Fiona was the contact person for the website. She admitted she was the owner of it in her affidavit which is contained in Exhibit A2 at page 235.

(b) Pages 3 and 4 – which have the terms of settlement of an earlier matter concerning a defendant Michaelson. The terms admit there was no proof of the defamatory remarks regarding OTO.

(c) Page 17 –a search conducted by the respondent of the loveforlife web site on 3 December 2014. It showed five references to the respondent's name after the taking down of some material by Fiona.

(d) Page 19 – a similar search using Google in respect of the same site produced 45 results. This search was done in September 2015.

(e) Page 25 – a search of OTO in September 2015 which produced 1250 results.

(f) Page 41 – a search on 14 December 2014 after the first judgment with two results.

(g) Page 43 – the new post by Arthur Cristian.

33. It seems that the respondent was not aware of material on the loveforlife website until after 24 March 2014 when there was a post on it by one Michael Borusiewicz. He had been suing that man and did a search of his name in May 2014 and discovered the material on Fiona's website.

34. He then found earlier material that related to the Gaiaguys website that had been shut down. This was the website of Devine and Legg who he had successfully sued. The earlier material was more directed at the OTO but his name was mentioned in connection with it. There were posts that took issue with the Gaiaguys material but there were posts that supported it.

35. In Exhibit A2 at page 43 there is photo of the respondent with his job and contact details described and remarks that suggest he is linked with the OTO and the various instances of horrible conduct levelled at it. His photo is also at pages 77, 80 and 82 of Exhibit A2. There is much more material that expressly mentions the respondent as well as OTO and Crowley.

36. Also at page 75 bank details are given for donations to the website. Fiona said that the website is there to give a voice to those who wish to be heard and may not have a voice. The tribunal had the opportunity to listen to her in detail. We were impressed with her determination to ensure her point of view was recognised. She said she had no wish to harm the respondent or his family. She clearly believed that Crowley, a person who died some years ago, was a person

with whom no respectable person should be associated, although she confessed that she had no way of knowing or proving that he was guilty of the ideas or activities that she believed him to be. Having disavowed an intention of saying that the respondent was of bad character, she then said he put himself in the frame for a bad reputation by association with OTO and its association with Crowley.

37. The evidence accepted by President Symons in the original hearing was that the allegations, particularly those published in December 2014, were extremely damaging and there were a substantial number of visits to the website.

38. Reading the references to the respondent in Exhibits A1 and A2, it is clear that he has been seriously defamed by many of the postings. The direct post by Michael Borusiewicz, the posts by Arthur Cristian, the reposting of material from Gaiaguys and Michaelson when read together, or separately make serious allegations of immoral and criminal behaviour of Crowley, OTO, and the respondent. A fair minded reader would so understand them. The submission that the material is not defamatory of the respondent is wrong.

Third issue

39. OTO is a public body but is probably not correctly described as a commercial organisation. It is a religion and is registered as one apparently. Whatever its status, it can be critiqued. But that does not give open slather to say anything at all about it. In the VCAT decision referred to, the offending material was held to transgress any legitimate scope for a critique. It may be that if there was evidence that established the truth of any of the earlier remarks, they would be permissible. But, the references to OTO contain no new information or indeed any direct evidence that could be relied on in these proceedings. Although the rules of evidence are not applied to these proceedings, it is still necessary to provide ‘probative’ or persuasive material that establishes the factual finding relied on, and where allegations of conduct such as these are made, the evidence would need to be extremely cogent. The onus of establishing the truth of defamatory statements is on the defendant. The evidence relied on by Fiona is not said to prove the truth, but rather the public perception or reputation, of OTO.

40. Fiona sought to tender new material not adduced in the proceedings appealed from. The respondent objected. He said it was not cogent. As Fiona was and is self-represented, there is an excuse for not having tendered it before. As the tribunal is not bound by the rules of evidence it seems more practical to allow it and address its cogency as part of the consideration of the appeal.

41. The material relied on by Fiona is mainly directed at Crowley. OTO is tangentially defamed by this as he was involved in the organisation. Professor Ezzy provided a valid explanation about some of Crowley's writings and of his role in OTO. The material Fiona provides are her own writing, references to internet writing and links to writing that describe Crowley and quote some of Crowley's writing. The writing attributed to Crowley is not proved to be his. It is not edifying. It may not be intended to be taken literally. It may have represented the views of the writer at the time of writing. It may not have remained his views. It is not shown that even if these writings were the writings of Crowley, and he believed them literally and remained of that belief, that these views were ever introduced into OTO in any way.

42. It cannot be said from the material adduced by either side that OTO is guilty of any of the defamatory conduct levelled at it in the material complained of.

Fourth issue

43. Fiona expressly said that she does not know whether OTO is a satanic organisation engaged in depraved behaviour. She does not know whether Crowley behaved in the ways attributed to him in the posts that appeared on her website. She says however that this is the reputation or public perception of OTO. But the evidence does not establish that there is a public perception about OTO, or a public perception about involvement of its members in the activities asserted. Neither tribunal member had heard of OTO before this matter. It seems probable that the posts on the loveforlife website were attempts to create such a public perception. The posts referred back to past attempts, all of which were found to be defamatory. It is cautionary to consider what Lord Hodson said in *Lewis v Daily Telegraph* [1964] AC 234 at 274:

> *To say that something is rumoured to be the fact is, if the words are defamatory, republication of the libel.*

44. It is true that the respondent is a member of OTO and identified himself as such in the earlier proceedings. In the earlier proceedings he was vindicated. It is difficult to follow why, the fact that the respondent identified himself as member of OTO in order to successfully vindicate his reputation and that of OTO, he might now be perceived by the public as having a bad reputation.

45. If a person complaining of defamation had a bad reputation, he or she may not have been defamed or have suffered any, or any significant, harm as a result. Fiona has not established however that OTO or the respondent had or has a bad reputation.

Fifth issue

46. Fiona made it clear that she did not write the posts and had no intention to harm the respondent. Nor did she have any particular opinion about the posts as she was not aware of them until the respondent sent his Notice of Concerns. Intention is not an element of defamation and does not go to liability.[3] It may be relevant to mitigation of damages, or aggravated damages, or whether an honest opinion was held. Whilst saying that she did not wish harm to the respondent, Fiona then argued that he had made himself a target by putting himself forward as a public face of the OTO. The original decision did not make an error in this respect.

Sixth issue

47. As found by the tribunal in the decision appealed from, although Fiona took down some of the material in June 2014 there were still entries left as Exhibit A2 shows. Also, Arthur Cristian then added his own posts in December 2014 and there were new posts thereafter. As the owner of the website, Fiona was responsible for monitoring it and ensuring that defamatory material was not published, was completely removed once identified and then not re-published. Fiona in conducting the appeal sought to justify the conduct for which she was ultimately responsible, by submitting that in effect the respondent had a bad reputation. The conduct after the proceedings were commenced clearly aggravates the harm suffered. The original decision was not in error about this.

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[3] *Cassidy v Daily Mirror Newspapers* [1929] 2 KB 331 at 354 and *Lee v and McKinnon* (1934) 51 CLR 276 at 88

48. It is not necessary to decide what damages may have been awarded if there was no jurisdictional limit, but based on similar cases it is probable that the damages whether aggravated or not would exceed $10,000.

Seventh issue

49. It was said there was an error in accepting Professor Ezzy's evidence. This was because Fiona believed otherwise based on what she said were writings of Crowley. Professor Ezzy was cross examined and his evidence accepted. His evidence was admissible and there was no cogent evidence to the contrary. The tribunal did not commit an error by accepting his evidence.

Eighth issue

50. The motivation of the respondent was argued to be about money rather than his reputation. At the original hearing David gave evidence about the impact of these publications on him personally and his motivations for pursuing the matter in the tribunal, shown at page 47 of the transcript. He reiterated those concerns and pointed out at the appeal hearing that if he was motivated by money he would have brought proceedings in the Magistrates Court where he could have expected a higher award and recovery of legal costs. By proceeding in the tribunal he accepted the tribunal's limited jurisdiction and spent considerable time undertaking the work necessary to represent himself when this could have been done with the assistance of a lawyer with costs to be recovered. Fiona's submission about David's motivation in bringing the proceedings has no factual basis and is not supported by logic. There is no reason to interfere with the original decision on this basis.

51. No defences under the *Civil Law (Wrongs) Act* 2002 or the common law were identified by Fiona. The only defence that President Symons could glean as being asserted was the defence of honest opinion. Fiona did not post the defamatory material so had no belief about the allegations at the time they were posted and she told the Appeal Tribunal several times that she has no personal knowledge or belief about the defamatory material or whether the allegations are true.

52. The defence of honest opinion is available if it is the opinion of the person posting the allegations, it is in the public interest to make the matters known and

the defamations are based on 'proper material'. Proper material is defined in section 139B(5).[4] The material upon which any opinion must be based must be substantially true. No substantial truth has been established.

Conclusion

53. We do not find any relevant error in the original decision. There was an apparent misunderstanding in paragraph 118. The Gaiaguys material was posted in 2008. The correct position is earlier described at paragraphs 64-82. We do not completely agree with paragraph 117. It has not been established that Fiona had reasonable grounds to believe that the postings by Mr Borusiewicz and others were not honestly held by him, or that she did not believe Arthur did not honestly hold the views he wrote. However, there was no evidence of substantial truth. We also do not agree with the conclusion in paragraph 131. It is immaterial however as Fiona was the owner of the website and knew the material was there and left it there. The aggravation is still suffered.

54. For the above reasons the appeal should be dismissed and the original decision confirmed. Unless an application is made by the appellant within 14 days the stay order made will be vacated.

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President L Crebbin for and on behalf of
the Appeal Tribunal

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[4] *5) For the purposes of this section, an opinion is based on* ***proper material*** *if it is based on material that—*

(a) is substantially true; or

(b) was published on an occasion of absolute or qualified privilege (whether under this Act or at general law); or

...

HEARING DETAILS

FILE NUMBER:	AA 18/2016
PARTIES, APPELLANT:	Fiona Cristian
PARTIES, RESPONDENT:	David Bottrill
COUNSEL APPEARING, APPLICANT	N/A
COUNSEL APPEARING, RESPONDENT	N/A
SOLICITORS FOR APPLICANT	N/A
SOLICITORS FOR RESPONDENT	N/A
TRIBUNAL MEMBERS:	President L Crebbin, Senior Member B Meagher, SC
DATES OF HEARING:	13 July 2016