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IN THE HIGH COURT OF NEW ZEALAND
TIMARU REGISTRY

NO. G.R. 38/84

1160

BETWEEN

MOORE

Appellant

A N D THE POLICE

Respondent

Hearing: 14 September 1984 (Heard in Christchurch)

Counsel: Appellant In Person - No Appearance
 B.M. Stanaway for Respondent

(ORAL) JUDGMENT OF COOK J.

The appellant has not appeared, but asks that letters written should be taken into account. The appeal is expressed to be against conviction and an order made against him but I shall regard it as an appeal against conviction and sentence. The charge is under the Traffic Regulations, in that being the driver of a vehicle where, due to his driving, damage having occurred to property, he failed to report the occurrence of the damage to the owner.

It seems that, on the 23rd of October at about 2 p.m., he was driving north on Highway 1, veered onto the incorrect side of the road and collided with a letter-box causing considerable damage. He went on, had his number had been taken, he was stopped by the police. He admitted what had happened and claimed that he was going to report the matter to the Ministry of Transport in Christchurch.

The District Court Judge had before him a letter

which he appears to have taken as a plea of guilty and such a finding was entered. In the letter the appellant stated that he had reported to the Ministry of Transport on the 24th, which was the following day, and been in touch with the insurance company regarding payment of the damage. To my mind, the letter must be taken as an admission and it was proper to enter the guilty plea.

The District Court Judge fined him \$200 and made an order to make compensation in the sum of \$80. There is confirmation on the file that the accident was in fact reported to the Ministry on the following day and also that the appellant has paid compensation in full for the damage, a sum of \$95, greater than the amount of the compensation order made.

If the appeal is intended to be against conviction then it cannot be dealt with here. There must be a rehearing in the District Court. I intend to treat it as an appeal against sentence, but without prejudice to his right to apply for a rehearing should the appellant wish to do that. It appears that the maximum fine for this particular offence is \$200 and I am unable to see that this could be regarded as so serious a case that it warrants the maximum fine. There must be many cases much worse than the present one.

The appeal against sentence is allowed by reducing the fine to \$40. The order for compensation was made before the appellant had in fact made a payment, so the order should stand, but I note that on the facts before the Court, the appellant appears to have paid the amount in full.

A handwritten signature in black ink, appearing to read 'L. Good', is located in the lower right quadrant of the page.

Solicitors:

Appellant In Person - No Appearance
Crown Solicitor's Office, Christchurch, for Respondent.