

643

BETWEEN

GODFREY

Appellant

A N D

MINISTRY OF TRANSPORT

Respondent

Butterworths

Hearing : 6th June 1984

Counsel : No Appearance for Appellant
C.Q.M. Almao for Respondent

Judgment : 6th June 1984

(ORAL) JUDGMENT OF BARKER, J.

This is an appeal against sentence. The appellant was charged under the minor offences procedure with an offence under the Traffic Regulations of not notifying the Police or the Ministry of Transport of damage caused by a motor vehicle driven by him in circumstances when he was not able to notify the owner. It is alleged that on 4th September 1983, the appellant drove his car into the fence belonging to a tennis club. He told the Ministry of Transport that a bottle rolled under his brake pedal and he was not able to stop in time. He was under the impression that he was not obliged to report the damage unless there was a collision between motor vehicles.

It is clear that the appellant did eventually get in touch with the tennis club whose property had been damaged by his driving; he paid for the repairs to the fence. Obviously,

he did communicate with the owner but did not do so within 48 hours.

The appellant was on PEP temporary work. In addition to paying the tennis club for the repairs of the fence, he had to spend \$120 on painting and panelbeating for the damage to his own car.

It seems to me that this is a matter where the appellant should not have been prosecuted. It seems a relatively minor matter; the tennis club, the other party involved, was apparently compensated. For that reason, I think that, for a man on a PEP work scheme who has faced up to his responsibilities, a fine of \$100 imposed by the Justices of the Peace, was unnecessary. In my view, the appellant should be convicted and discharged and ordered to pay only the \$8 Court costs.

The appeal is therefore allowed.

R. J. Barkin J.

SOLICITORS:

Crown Solicitor, Hamilton, for Respondent.