

DUTTON V COMMISSIONER OF HOUSING [1999] ACTAAT 21

AAT of ACT – 3 August 1999

FACTS

Dutton was a tenant at premises in Canberra which were managed by the Commissioner.

Disagreements arose between Dutton and other tenants at the premises that led to Dutton's motor vehicle being damaged by a fire and complaints about Dutton made to the Commissioner by other tenants.

A tenant had apparently sent a letter to the Commissioner complaining about the motor vehicle.

The letter had been released to Dutton but with the name of the person making the complaint deleted and information that could identify the complainant deleted. The Department claimed that the information had been deleted as that part of the document was exempt as it related to the personal affairs of a person.

Dutton agreed that the name of the complainant should not be disclosed but argued that information that could identify the complainant should be available.

ISSUES

Would disclosure of the personal affairs of the complainant be an unreasonable disclosure and would it be in the public interest for the information to be disclosed?

FINDING

Disclosure of the information would be an unreasonable disclosure of the personal affairs of the complainant and the public interest favoured the non-disclosure of the information.

QUOTE

President M H Peedom said:

“There is ordinarily a strong public interest in a person having access to the records of an agency which relate to that person where the character and reputation of that person have been adversely commented upon.”

“In my opinion, the letter in respect of which the application is made suggests that the action taken by the un-named person had, as its principal objective the elimination of the cause of the conflict.

I consider that the provision of access to the deleted material ... would not only serve to prolong, and perhaps, inflame the conflict and that such an outcome would not serve the public interest. I note that there is no evidence of any action adverse to the applicant having been taken in consequence of the complaint.”

IMPACT

When deciding whether information containing person affairs should be disclosed it is important to balance the public interest of the applicant protecting their reputation and the public interest in the protection of the person affairs of other people.

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