

HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

(Ormerod, J.)

18th December, 1956

RICHARDS v. THE MINISTER OF PENSIONS AND

NATIONAL INSURANCE

JUDGMENT

MR. JUSTICE ORMEROD: This is an appeal by Thomas George Richards against the finding of the Pensions Appeal Tribunal that the disability resulting from an accident on the 5th May, 1955, when he was admittedly serving in the Army, was not attributable to his service.

The facts are a little unusual and they are these: the Appellant, Private Richards, was serving in 1955 in the Army and was stationed at West Moors and on the 5th May of that year there was a dance in connection with the station and Private Richards was on police duty at the dance. During the course of the evening he had occasion to check one of the other members of the forces, who attended the dance and was known as Private "A", for his conduct at the dance. There is a certain conflict of evidence as to the amount of checking that had to be done, but it does appear that Private "A" had had a good deal to drink and was enjoying himself probably a little loudly and a little roughly. There seems to be little doubt that there was a certain amount of trouble between Richards and Private "A".

When the dance was over Private "A" was taking his girlfriend to the bus and seeing her off and again trouble arose between Richards and Private "A" and apparently one or the other challenged the other to a fight and I do not think it matters very much which. The point is – and it has been admitted on all sides – that Private "A" having got to his billet, which was Hut No. 16, Richards followed him there and there was a fight. Richards knocked Private "A" down and there is some doubt as to whether he deliberately kicked him or not, but eventually Richards, admittedly still in a temper, turned round and left the hut. When he got outside the hut, for some reason or other which has never been fully explained, he put his fist through the window and sustained the injury in respect of which this claim is made.

There is a certain conflict of evidence; nobody seems to know very much why he did it. One witness said that he shouted something out to Private "A" and put his fist through the window still in his temper. It may be, as I suggested in the course of the hearing, that he shook his fist at somebody inside and, in so doing, put his fist through the window; it may be, as suggested by the Appellant himself, that he stumbled and put out his hand to save himself and, in so doing, put his fist through the window. None of those things can really be established by evidence and I do not think anybody has formed any very definite conclusion as to what was the real immediate cause of the Appellant putting his fist through the window.

But the appeal here is based on this: that the Tribunal have said that whether his injury, that is, in the breaking of the window, was caused by stumbling or by some means, the whole point is that it is not for the Tribunal to make fine distinctions as to the moment of time and to divide this incident up into small compartments; but, on the whole of the facts, even assuming that he did stumble, the Tribunal came to the conclusion that he was engaged on some personal enterprise of his own and that this accident did not occur in any way by reason of any duty or compulsion of service.

Having heard the argument that Mr. Crispin has gallantly put forward in this case, I am bound to say that I accept the conclusion to which the Tribunal came: this was so much a part of the incident and the aggressive behaviour of Richards, who was, no doubt, in a violent temper and going to this hut in order to deal effectively with Private "A", that it is quite impossible to disassociate it in any way from that incident; and, clearly, for the Appellant to go into the hut, as he did, where he had no authority to be at all, for no other reason than to attack Private "A" in the way that he did was a purely personal matter and something which in no way it could be said was due to any compulsion of service.

Under those circumstances, I am satisfied that the Tribunal were perfectly right in coming to the decision which they did and this Appeal must be dismissed.

MR. WINN: If Your Lordship Pleases.