

# Defence loses \$15m fight

Russell Vance fought in the courts for justice against an antagonistic Defence for over a decade, reports Paul Daley.

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THE Department of Defence has settled one of its longest-running, most contentious and costly legal disputes with a former Royal Australian Air Force officer it sacked for suffering depression.

After a decade-and-a-half of legal action costing taxpayers an estimated \$15 million, Defence has finally made a generous settlement with former Wing Commander Russell Vance.



Vindicated ... Russell Vance at his home in Gilmore, south of Canberra. Vance now designs and makes guitars for a living.

*Photo: Anthony Johnson*

The settlement with the Canberra-based Mr Vance, 55, is an admission of the Defence Department's liability for his loss of earnings because his promising Royal Australian Air Force career was destroyed after a petty dispute involving subordinates. Defence also paid his \$1 million-plus legal bill.

The department moved to settle the case last December after the former defence minister Joel Fitzgibbon demanded answers about unsatisfactory aspects of the its conduct of the case.

The Commonwealth requires its authorities involved in legal action to behave as model litigants.

But the Attorney-General's Department found Defence had breached this obligation "by causing unnecessary delay in the handling of the litigation arising from a failure to undertake all reasonable and necessary inquiries" relating to the discovery of relevant documents.

The extraordinary intervention by the Attorney-General's Department came after a judgement by the Australian Capital Territory Supreme Court Justice, Ken Crispin that the Commonwealth should no longer defend Mr Vance's unfair dismissal case.

Mr Vance's solicitor, John Little of Maliganis Edwards Johnson, confirmed that Defence formally settled with his client on May 15.

"This brings to an end a case that highlights that Defence operates as anything but a model litigant ... on the basis of what has happened to Russ you wouldn't let your dog - let alone your children - join Defence."

Mr Vance said: "I feel very sorry for other people in my situation who haven't had the luck or the serendipity to find people like John Little who will support their cases ... The money is really just compensation for them destroying my career."

Mr Vance wants an apology from Defence for the suffering it caused him. "I think an apology is the very least they owe me."

Mr Vance's troubles began in 1993 when he was posted to Butterworth, Malaysia, with orders to fix an RAAF base reputed to be a "holiday camp".

Mr Vance, by his own admission a "tough bastard" and a stickler for military protocol, fell foul of his subordinates whose wives complained to a social worker about his abrasive management approach.

When Mr Vance sought details under Freedom of Information, Defence ordered a military board of inquiry into his conduct. The board sat in two continents for over two years at a cost of \$6 million.

It was scrapped when Mr Vance suffered a nervous breakdown under the pressure, and reconvened when a board member discovered he was working part-time in Defence as part of his treatment.

After the inquiry findings criticised Mr Vance's management style, the RAAF sacked him, only to reinstate him when Mr Little commenced Federal Court proceedings.

The RAAF sacked Mr Vance again on the basis of his depression.

The case went on for another decade at an estimated cost of \$6 million. The cost to taxpayers, including the settlement and Mr Vance's legal bill, is estimated at \$15 million.

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