

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF the *University of Toronto Act*, 1971, S.O. 1971, c. 56 as amended S.O. 1978, c. 88

AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters, 1995*;

BETWEEN:

THE UNIVERSITY OF TORONTO
- and -
Mr. K.N.

Members of the Panel:

- Mr. Andrew Pinto, Chair
- Professor Ikuko Komuro-Lee, Faculty Panel Member
- Ms. Sujata Pokhrel, Student Panel Member

Appearances:

- Mr. Danny Kastner, Assistant Discipline Counsel for the University
- Ms. Lily Harmer, Assistant Discipline Counsel for the University, and Mr. Danny Kastner

- Ms. Lucy Gaspini, Academic Affairs Officer, University of Toronto at Mississauga

- Mr. K.N., Student, did not attend

Preliminary

[1] The Trial Division of the University Tribunal was convened on April 16, 2008 to consider charges under the University of Toronto *Code of Behaviour on Academic Matters, 1995* (the “Code”) laid against the Student by letter dated July 30, 2007 from Professor Edith Hillan, Vice-Provost, Academic.

[2] The Student did not attend the hearing and was not represented by counsel.

Notice of Hearing and Charges

- [3] At the commencement of the hearing, Counsel for the University, Mr. Danny Kastner, reviewed the University's efforts to notify the Student of the hearing.
- [4] The *Notice of Hearing*, dated March 6, 2008, informed the Student that a hearing before the Trial Division of the University Tribunal was scheduled for Tuesday April 8, 2008. On March 7, 2008, the Student signed a declaration attesting to his permanent residency outside of Canada and his inability to attend a Tribunal hearing in person. The Student requested that the Tribunal accept the signed Agreed Statement of Facts and Joint Submission on Penalty in lieu of his attendance at the hearing. The Student further acknowledged that the Tribunal would hear and decide the case in his absence without further input from him or anyone acting on his behalf.
- [5] The April 8, 2008 hearing had to be adjourned. On April 9, 2008 a *Notice of Hearing - Revised* was issued to the Student. The revised notice informed the Student that the hearing would take place on April 16, 2008.
- [6] After reviewing the evidence pertaining to Notice, the panel permitted the hearing to proceed in the Student's absence.
- [7] The charges are as follows:
1. On or about November 24, 2006, you knowingly had another person personate you at Term Test #2 in MAT133Y5, contrary to section B.I.1(c) of the Code.
 2. On or about November 24, 2006, you knowingly obtained unauthorized assistance in connection with Term Test #2 in MAT133Y5, contrary to section B.I.1(b) of the Code.
 3. In the alternative, on or about November 24, 2006, you did knowingly engage in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind, by having another person personate you, and/or provide you with unauthorized assistance, in connection with Term Test #2 in MAT133Y5, contrary to section B.I.3(b) of the Code.
- [8] Particulars of the charges are as follows:
1. At all material times you were a student at the University of Toronto. In academic year 2006-2007 you were enrolled in MAT133Y5Y, which was taught by Professor Any Wilk.
 2. On or about November 24, 2006, you arranged for and paid another person to personate you and write Term Test #2 for MAT133Y5Y.

Agreed Statement of Facts

- [9] The panel was provided with an Agreed Statement of Facts, signed by the Student and Counsel for the University. In summary, the Student admitted that he paid another individual to impersonate him and write Term Test #2 for MAT133Y5Y as if he were the Student. The Agreed Statement of Facts is attached at Appendix 1.

Decision of the Tribunal

- [10] Based on the Agreed Statement of Facts the Tribunal found the Student guilty of charge #1. The University withdrew charges #2 and #3.

Sanction and Reasons

- [11] The University presented to the panel a Joint Submission on Penalty, signed by the Student, which submitted that the appropriate penalty is:
1. assignment of a grade of zero in MAT133Y5;
 2. suspension from attendance at the University of Toronto for a period of 5 years from the date of the hearing;
 3. a notation to be placed on the Student's transcript from the date of this hearing for a period of 7 years or his graduation from the University, whichever occurs first, to the effect that the Student was sanctioned for academic misconduct;
 4. that a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld

The Joint Submission on Penalty is attached at Appendix 2.

- [12] In its submissions on penalty, the University reminded the panel of the courts' directives on joint submissions, namely that adjudicators should be loathe not to accept the joint submission and should do so only if the administration of justice would become in disrepute following acceptance of a joint submission. In that context, the University strongly encouraged the panel to accept the joint submission on penalty.
- [13] The University explained that the sanctions sought in this case were determined in accordance with previous Tribunal decisions. Recognizing that the panel is not bound by precedent, discipline counsel underscored the necessity of consistency in the application of justice.

[14] The panel questioned why the period of notation on the Student's transcript exceeded the expiry of the suspension. The University explained that it is customary for the notation to exceed the period of suspension since the purpose of the notation is two-fold: first, to serve as a reminder to the Student to comply with standards of academic integrity upon his return to the University; secondly, to serve as an advisory to University officials who may have reason to access the Student's academic record, in the event that the Student commits further offences after resuming his academic career. Discipline counsel indicated that the caveat included in the proposed sanction, "from the date of this hearing for a period of 7 years or his graduation from the University, whichever occurs first", would safeguard the Student's reputation after graduation.

[15] Following the University's submissions, the panel accepted the Joint Submission on Penalty. In accepting the joint submission, the panel noted that, according to the Provost's guidelines on sanction that appear in Appendix C of the *Code*, expulsion is the recommended sanction for impersonation. However, given the deference that is to be shown to joint submissions, the panel imposed the following sanction:

1. assignment of a grade of zero in MAT133Y5;
2. suspension from attendance at the University of Toronto for a period of 5 years from the date of the hearing;
3. a notation to be placed on the Student's transcript from the date of this hearing for a period of 7 years or his graduation from the University, whichever occurs first, to the effect that the Student was sanctioned for academic misconduct;
4. that a report of the decision be made to the Provost for publication in the University's newspaper with the Student's name withheld

DATED at Toronto this 18th day of April, 2008.



Andrew Pinto, Tribunal Co-Chair