

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report #338 of the Academic Appeals Committee
January 12, 2010

Your Committee reports that it held a hearing on Thursday October 29, 2009 at which the following members were present:

Mr. Tad Brown, Chair
Mr. Adam Heller
Professor Doug McDougall
Professor Elizabeth Smyth
Dr. Sarita Verma

Secretary: Mr. Christopher Lang

Appearances:

The Student Appellant (Mr. H■■W■■K■■) and his counsel Mr. Jordan Giurlanda from Downtown Legal Services

For the University of Toronto Scarborough (UTS):
Professor John Scherk, Vice Dean of UTS

I. The Appeal

The Student is appealing a decision of the Subcommittee on Academic Appeals (SAA) at the University of Toronto Scarborough dated March 31, 2008. The decision of the SAA dismissed an appeal by the student for late withdrawal without academic penalty for three courses taken in the Winter Session 2007, namely ECM A06H3 (Introduction to Macroeconomics: A Mathematical Approach), EES A10H3 (Human Health and the Environment) and PSY A02H3 (Introduction to Psychology Part II) (collectively the "Courses"). The Student is appealing on medical and compassionate grounds. The Student is seeking a remedy that would allow him to be granted late withdrawal without academic penalty from the Courses or, in the alternative, that he be granted Aegrotat standing in the Courses.

II Facts

The Student first enrolled at the University of Toronto Scarborough in the 2005 Fall Session in Honours Bachelor of Arts and completed 1.5 credits by the end of that session. The Student registered for 2.0 credits in the 2006 Winter Session and

completed 1.5 credits by the end of that session. At that time, his status was assessed as “on academic probation”.

The Student next registered for three half-credit courses during the 2007 Winter Session (the Courses). The Student failed all three Courses. The Student failed EES A10H3 (Human Health and the Environment) and PSY A02H3 (Introduction to Psychology Part II) after writing the final examinations. On April 26, 2007 the Student petitioned to write a deferred examination in the course ECM A06H3 (Introduction to Macroeconomics: A Mathematical Approach). This petition was granted on medical grounds based on a Student Medical Certificate indicating acute headache, malaise, fever, nausea and dizziness. The deferred examination for ECM A06H3 was scheduled for August 16, 2007. This examination was to be worth 100% of the grade as the Student did not write the mid-term examination. The Student did not sit the examination on August 16, 2007. The Student obtained a medical note on August 20, 2007 indicating that the Student has been suffering from abdominal problems. The Student did not contact anyone or seek a medical note between August 16th and August 20th as he indicated that he was too ill to leave his house. The Student petitioned to write a second deferred examination which was denied by the University on August 29, 2007.

In September 2007, the Student petitioned the Office of the Registrar for late withdrawal from the Courses citing “psychological illness”. In support of the petition, the Student provided a medical certificate from his doctor which stated that the Student was suffering from “depression-major affective disorder”. The medical certificate described the Student’s problem as “progressive onset and deterioration, depressive disorder since July 2006 to present”. On October 23, 2007, the Student’s initial petition was denied. In the decision, the Office of the Registrar stated “We are sympathetic to your illness. However, you have been aware of your illness since July 2006. As a student on academic probation, you should have assessed your situation carefully and withdrawn from your courses by the appropriate deadline (March 25, 2007)”.

III Previous Decision

The Student appealed this decision to the Subcommittee on Academic Appeals (the “SAA”) of the University of Toronto Scarborough in January 2008 and cited depression as the reason for his failure of the Courses. The Student described the two causes of his depression being the death of his closest friend in February 2007 and the fact that his parents returned to Korea in April 2006 and that his father had subsequently developed worsening heart conditions. The SAA denied the appeal in a decision date March 31, 2008. The SAA concluded that “The committee agreed that you had experienced several difficulties which might well have impacted your studies. Unfortunately, you did not provide evidence that might show how these conditions had caused the crisis in your studies during the Winter and Summer Sessions 2007”. In addition, the SAA noted that the Student had been diagnosed

with depression by his doctor as early as July 2006 but had not been treated medically for this condition nor had he consulted with a specialist. The SAA urged the Student to consult with a doctor about ways to deal with his depression and to consult with an Academic Advisor about managing his academic load.

IV Decision

The Student provided additional evidence to your Committee which was not presented to the SAA. In particular, the Student provided additional supporting documents in the form of an affidavit and a medical note to substantiate his claims of the death of his close friend and the heart problems of his father, respectively. Your Committee accepts that these events did in fact take place.

The Student also took the advice of the SAA and sought additional medical help. Shortly after receiving the decision of the SAA, the Student received a referral to a psychiatrist. After numerous meetings, the psychiatrist in a report dated June 8, 2008 diagnosed the Student as having been "suffering from bipolar II disorder, generalized anxiety disorder, attention deficit disorder-adult type and social phobia for more than two years". The Student is now taking medication and undergoing regular counseling sessions with his psychiatrist.

The Student has also taken the advice of the SAA and sought advice from academic advisors which has been beneficial to his studies.

Your Committee commends the Student for taking these actions and is pleased to see that his academic performance has improved. Your Committee is also sympathetic to the situation in which the Student found himself in the Winter and Summer Sessions 2007.

However, your Committee agrees with the SAA that the Student was aware of his depression as of July 2006 at the latest. Your Committee also agrees with the SAA that, as the Student was on academic probation, he should have sought academic counseling if he was struggling with his academic load. The drop date for the Courses was March 25, 2007 which provided the Student with ample time to have assessed his situation and to withdraw from the Courses without academic penalty. The Student has confirmed that he did not seek any academic counseling during the Winter and Summer Sessions 2007.

Your Committee has on a number of occasions dealt with petitions for late withdrawal from a course without academic penalty and has consistently stressed that this remedy will not be lightly granted. The remedy of late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique situations. The idea of "drop dates" indicates that the University expects that a student will make a decision whether to continue in a course by a set date in the term. But by the drop date, a student is expected to have assessed his or her

situation and made a decision. Once the drop date passes, the implication is that the student has decided to continue on in the course. Exceptions to this policy are rare, but could include situations where unexpected and unforeseeable circumstances occur after the drop date, where already existing circumstances become unpredictably worse, or where already existing circumstances do not reasonably resolve.

While your Committee accepts that the death of the Student's friend and his father's ill health were challenging for the Student, there was not enough evidence to support the impact that these events had on the Student's academic performance that would justify allowing this extraordinary remedy in accordance with the parameters set out above. In particular, both of these situations had presented themselves well before the required drop date.

Again your Committee commends the Student for seeking further medical attention after the decision of the SAA and is pleased that the Student's current mental health has been assessed and that he is receiving required medical treatment and counseling. However, the diagnosis of the Student's mental health issues of bipolar II disorder, generalized anxiety disorder, attention deficit disorder-adult type and social phobia was not made until June 2008. This diagnosis is one year after the examination period in question for the Courses. Your Committee is unanimously of the view that there was insufficient evidence presented of the Student's medical condition during the Winter and Summer Sessions 2007 and the impact that the Student's mental health at that time had on his ability either (i) to write the examinations or (ii) to seek academic counseling and withdraw from the Courses by the required drop date. Therefore your Committee has determined that this case is not one which justifies the extraordinary remedy of granting late withdrawal from the Courses without academic penalty.

While it does not affect the outcome of this appeal, Your Committee would also like to express its views on two additional matters raised in the context of this appeal.

First, the SAA in its decision stated that "The committee noted that your primary stated concern in the hearing was to raise your grade point average in order to enter the Specialist program in Management. We appreciate that many students would like to remove courses in which they obtained poor marks from their transcript, but the University of Toronto is generally unsympathetic to this sort of cosmetic change". This position was reiterated in the context of the submissions made by UTS in this appeal. Your Committee strongly endorses the view that there is nothing improper about a student's desire to improve his or her academic record in order to gain entry into a program of choice. There must be actual circumstances and evidence which supports and justifies a change to the student's academic record in each specific case beyond the motivation for entry into a particular program. However, if and only if those circumstances exist, the motivation of a student to launch an appeal based on his or her desire to open the opportunity to gain entrance into further academic programs is entirely reasonable.

Second, your Committee notes that the Student filed his Statement of Appeal with the University of Toronto Governing Council on July 2, 2008. The University of Toronto Scarborough filed submissions responding to the Statement of Appeal on March 13, 2009. No meaningful explanation was provided by the University of Toronto Scarborough for the delay of over eight months in responding. Your Committee is of the view that the University should implement formal guidelines which set out specific time deadlines for filing of the various documents required in a student academic appeal so as to prevent these types of delays in the future.

The appeal is dismissed.