

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty filed on April 8, 2015,

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

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

BETWEEN:

UNIVERSITY OF TORONTO

- and -

Y■■■■ G■■■

REASONS FOR DECISION

Hearing Date: July 14, 2015

Members of the Panel:

Ms. Sarah Kraicer, Barrister and Solicitor, Chair

Dr. Joel Kirsh, Faculty Panel Member

Mr. Simon Czajkowski, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland, Barristers

Ms. Emily Home, Summer Student, Paliare Roland, Barristers

In Attendance:

Dr. Martha Harris, Academic Integrity Officer, Office of the Dean, Faculty of Arts and Science

Dr. Anthony Lombardo, Instructor, University College, University of Toronto

Mr. Christopher Lang, Office of Appeals, Discipline and Faculty Grievances

Mr. Yehuda Levi, Observer, Office of Appeals, Discipline and Faculty Grievances

Not In Attendance:

Ms. Y■■■■ G■■■, Student

1. The Trial Division of the University Tribunal was convened on July 14, 2015, to consider charges brought by the University of Toronto ("the University") against Ms. Y■■■ G■■■ ("the Student") under the *University of Toronto Code of Behaviour on Academic Matters*, 1995 ("the Code").

Preliminary Issue: Proceeding in the Absence of the Student

2. The Tribunal waited until 5:47 p.m. to commence the hearing. Neither the Student, nor a representative of the Student, appeared.
3. Pursuant to sections 6 and 7 of the *Statutory Powers Procedure Act* ("the Act"), and Rule 17 of the University Tribunal Rules of Practice and Procedure ("the Rules"), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend at the hearing, the Tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. The University requested that the Tribunal proceed with this hearing
4. A notice of hearing may be served on a student by personal service, "by sending a copy of the document by courier to the student's mailing address contained in ROSI" [Repository of Student Information], "by emailing a copy of the document to the student's email address contained in ROSI" or "by other means authorized under the University's Policy on Official Correspondence with Students" (the "Policy") (Rules 9 (b) (c) and (d)).
5. The Policy states that Students are responsible for maintaining on ROSI a current and valid postal address and a University-issued email account. Students are expected to monitor and retrieve their mail, including electronic messaging accounts issued to them by the University, on a frequent and consistent basis.

6. The onus of proof is on the University under the Act and the Rules to establish that it provided the Student with reasonable notice of the hearing in accordance with these provisions.
7. The University filed evidence from Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances, with the Office of the Governing Council of the University, that she served a Notice of Hearing on Friday May 8, 2015, by email to the Student at the email address she had provided on ROSI: (a[REDACTED].g[REDACTED]@mail.utoronto.ca).
8. The University also filed evidence from Susan Murphy, Executive Secretary and Office Manager, in the office of Professor Sioban Nelson, Vice-Provost, Faculty & Academic Life, at the University of Toronto, that on April 8, 2015, she emailed a letter from Professor Nelson to the Student, dated April 8, 2015, which set out the Charges against the Student. The Notice of Hearing served on May 8, 2015 also included a copy of Professor Nelson's letter and the Charges.
9. The Student did not respond to these communications from the University.
10. In addition, counsel for the University advised that his office had attempted to reach the Student by phone and email at the number and address provided by the Student in ROSI and did not receive any response.
11. The Tribunal has reviewed the evidence and the submissions of counsel for the University and has concluded that the Student has been given reasonable notice of the hearing in compliance with the notice requirements of the Act and the Rules. The content of the Notice of Hearing complies with the requirements of the Act and the Rules. The Notice of Hearing and the Charges were sent to the Student via email to her email address listed in ROSI, in compliance with the Rules and Policy on Official correspondence.

12. The University has proven that it provided reasonable notice of the hearing to the Student. The Tribunal therefore determined that it would proceed to hear the case on its merits in the absence of the Student.

The Charges and Particulars

13. The Charges and Particulars are as follows:

1. On or about December 5, 2014, you knowingly represented the ideas of another, or the expressions of the ideas of another as your own work in an untitled essay (the "Essay") that you submitted in partial completion of the course requirements in UNI209H (the "Course"), contrary to section B.I.1(d) of the Code.
2. On or about December 5, 2014, you knowingly submitted in the Course academic work that contained a reference to a source that had been concocted, contrary to section B.I.1(f) of the Code.
3. In the alternative, on or about December 5, 2014, by submitting the Essay, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code to obtain academic credit or other academic advantage of any kind, contrary to section B.I.3(b) of the Code.

The particulars for the charges are as follows:

- (a) At all material times you were a student registered at the University of Toronto.
- (b) In Session 20149, you enrolled in the Course, which was titled Introduction to Health: Determinants of Health and Health Care and which was taught by Anthony Lombardo.
- (c) The Course requirements included a final essay assignment, which was worth 45% of the final grade in the Course.
- (d) On or about December 5, 2014, you submitted the Essay in partial completion of the Course requirements and to obtain academic credit.

- (e) You submitted the Essay knowing that it contained ideas, the expression of ideas, and verbatim or nearly verbatim text from articles (the "Sources"), including but not limited to:
 - (i) Wikipedia, "Health Policy";
 - (ii) 123helpme.com, "Comparing Canadian and American Health Care Systems";
 - (iii) UKessays.com, "Major Problems in Today's Healthcare – Health and Social Care Essay";
 - (iv) Webspier.com, "Health Care Reform";
 - (v) Webspier.com, "Compare US and Canada's Health Care Delivery System";
 - (vi) Webspier.com, "The Legal Implications of Private Healthcare in Canada"; and
 - (vii) ReviewEssays.com, "The Legal Implications of Private Healthcare in Canada."
- (f) You knew that you had not properly referenced the ideas, the expression of ideas, and the verbatim or nearly verbatim text that you took from the Sources and included in the Essay;
- (g) You submitted the Essay knowing and intending that when your instructor evaluated the Essay he would conclude that the Essay contained your own ideas that you had expressed in your own words.
- (h) You submitted the Essay knowing that it contained references to secondary sources that you did not use in researching or composing the Essay and that you inserted for the purposes of giving your essay an academic appearance and making it more difficult to determine that you had committed plagiarism.

14. Counsel for the University advised that the University was withdrawing Charge 2 and was only proceeding with Charges 1 and 3. He further advised that if the Tribunal were to find the Student guilty of Charge 1, the University would withdraw Charge 3.

The Evidence

15. The Tribunal heard evidence from Anthony Lombardo PhD, the Instructor of Introduction to Health: Determinants of Health & Health Care (UNI209H), a course offered as part of the Health Studies Program in the Fall 2014 session. Dr. Lombardo has taught this course every Fall since 2011.
16. At the outset of the course, Dr. Lombardo distributed and discussed the Course Syllabus for UNI209H, which set out the course evaluation methods, guidelines for submitting assignments, a description of the course assignments, and course and academic policies.
17. The course evaluation was based on three assignments. The third assignment consisted of a final scholarly discussion essay, worth 35-45% of the grade. The Student did not submit an optional outline, so her Essay was worth 45% of the total course grade.
18. Students in UNI209H were required to submit their assignments both in hard copy and in an electronic copy. In the Syllabus and in class lecture slides and discussions, students were advised that their assignments would be subject to "Turnitin" plagiarism detection software, which detects textual similarity and identifies possible plagiarism.
19. Dr. Lombardo provided students in UNI209H with information about the University's Academic Integrity Policy on plagiarism and also prepared and presented lecture slides on the topic of "Avoiding Plagiarism". These slides provided concrete examples of what did and did not constitute plagiarism in a paper, and were presented in class, discussed, and posted to the course website.
20. The Student submitted an Essay for her final assignment on December 5, 2014. The Essay was submitted to Turnitin.com and was flagged by that website as

having a similarity index of 56%. This level of similarity triggered a review by the University of the Student's Essay for potential plagiarism.

21. The University has provided an annotated version of the Student's Essay and a number of sources it asserts have been copied verbatim or nearly verbatim in the Student's paper without reference to the source or quotation marks.
22. The Tribunal has reviewed the Student's Essay and compared it to the sources and finds as follows:
 - (a) The Student's Essay contains a verbatim passage (approximately 2 lines of text) found in the Wikipedia site entitled "Health Policy".
 - (b) The Student's Essay contains a verbatim passage (approximately 10 lines of text) that is found in the website 123helpme.com.
 - (c) The Student's Essay contains verbatim or almost verbatim passages (approximately 33 lines of text) found in "Major Problems in Todays [sic] Health and Social Care Essay", a document from the website ukessesays.com. Some of the passages in the Essay repeat typos found in the source document (e.g. "revived" rather than "received").
 - (d) The Student's Essay contains a nearly verbatim passage (approximately 13 lines of text) found in "Essay Topic: Health Care Reform," a document from the website webspier.com.
 - (e) The Student's Essay contains nearly verbatim passages (approximately 8 lines of text) found in "Essay Topic: Compare US and Canada's Health Care Delivery System" a document from the website webspier.com.

- (f) The Student's Essay contains a nearly verbatim passage (approximately 5 lines) found in "Essay Topic: The Legal Implications of Private Healthcare In Canada" a document from the website webspier.com.
 - (g) The Student's Essay contains a nearly verbatim passage (approximately 6 lines) found in "The Legal Implications of Private Healthcare in Canada" a document from the website reviewessays.com.
 - (h) The Student's Essay contains a verbatim passage (approximately 2 lines) found in "Essays on Substandard Care", a document from the website cyberessays.com.
23. None of these passages in the Essay contains citations to these website sources, and none is in quotation marks. None is listed in the list of references at the end of the Essay.

Decision of the Tribunal on the Charges

24. The onus is on the University to establish on clear and convincing evidence on a standard of probabilities that the academic offence charged has been committed. The Student is charged under Charge 1 with knowingly representing the ideas or the expressions of the ideas of another as her own work. The Code provides that "knowingly" includes where a person ought reasonably to have known.
25. The Tribunal is of the view that the documentary evidence and the testimony of Dr. Lombardo establish that the Student knowingly represented the ideas or expression of ideas of another as her own work in the final Essay. The Tribunal has reviewed the Essay and compared it with the text of other documentary sources put in evidence by the University. It is clear that the Essay was largely created by stringing together copied blocks of text from other, unattributed sources. The Student included extensive verbatim and virtually verbatim passages found in various online sources, including "essay" websites, without

citation, without quotation marks, or any other indication that the text was copied from other sources. The sources of these passages were not listed in the reference page for the Essay. The Student sought to represent the ideas of others as her own in these plagiarized passages.

27. The rules about what constitutes plagiarism are set out in the University's Code of Behaviour. In addition, students in UNI209H had these rules further highlighted and explained to them by Dr. Lombardo in the course Syllabus and in the lecture slides and discussions regarding "Avoiding Plagiarism".
28. The evidence establishing the offence is cogent and compelling and has met the University's burden of proof with respect to Charge 1. The Tribunal finds that the Student is guilty of Charge 1.
29. Charge 3 was therefore withdrawn by the University.

Decision of the Tribunal on Penalty

30. The University sought the following sanctions:
 - (a) a final grade of zero in the course UNI209H
 - (b) a suspension from the University of Toronto from the date of this order for a period of two years, ending July 14, 2017; and
 - (c) a notation of the sanction on her academic record and transcript from the date of this order for a period of three years, ending on July 14, 2018; and
 - (d) that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

31. The University did not lead any additional evidence with respect to the sanction.
32. The Tribunal has considered the principles and factors relevant to sanction set out in *University of Toronto and Mr. C* (Case No. 1976/77-3, November 5, 1976). The determination of an appropriate penalty in every case by the Tribunal will depend on an assessment of these principles and factors in the individual circumstances of the case. At the same time, it is important that there is general consistency in the approach of Tribunals to sanction, so that students are treated fairly and equitably. (Discipline Appeal Board, *University of Toronto v. D.S.*, Case No. 451, August 24, 2007).
33. The University has presented a number of cases to support their argument that there is a general standard for a two year suspension for a first offence of plagiarism. The Tribunal does not consider itself bound by any such general standard. (See *University of Toronto v. F.A.*, Case No. 766, June 16, 2015, and *University of Toronto v. D.S.* at para. 49, which stated that students who are first time offenders committing one act of plagiarism, generally have received sanctions in a range of one to two years).
34. However, for the reasons set out below, and based on a consideration of all of the relevant principles and factors, the Tribunal considers the sanctions proposed by the University, including a two year suspension, to be appropriate and reasonable in the circumstances of this case.
35. The Student has not participated at any stage of the discipline process and has not responded to any communications from the University regarding these issues and allegations of misconduct. There is accordingly no evidence before us of mitigating or extenuating circumstances, good character, remorse or insight.
36. Plagiarism is a very serious offence that strikes at the heart of academic integrity at the University and that undermines the relationship of trust, learning and

teaching between all students and the University. The threat that plagiarism poses to academic integrity warrants a strong penalty. In addition, the sanction must serve as an effective general deterrent to others, as plagiarism is an ongoing issue for the University.

37. The extent of the plagiarism here was significant, as the majority of the Student's Essay was plagiarized text. The Essay was a major component of the course assignments, worth 45% of the total course grade.
38. On the other hand, this is a first offence by the Student. It is a single incident involving a single piece of academic work. The evidence does not disclose a pattern of conduct that would suggest that she will repeat the offence.
39. Our review of the Tribunal cases presented to us indicates that a two year period of suspension is generally consistent with the sanctions administered to other students in similar circumstances. In particular, in *University of Toronto v. H-S. M* (Case No. 788, February 18, 2015) and in *University of Toronto v. G.E.* (Case No. 782, April 15, 2015), the Tribunal ordered a two year suspension for a first offence of plagiarism where the students had not participated in the discipline process.
40. In all of the circumstances, and with regard to the factors identified in the C. case, the Tribunal is satisfied that the University's proposed sanctions are fair and appropriate.

Order of the Tribunal

40. The Tribunal issued the following Order on July 14, 2015:

1. **THAT** the hearing may proceed in the absence of Ms. G ■■;

2. **THAT** Ms G ■ is guilty of the academic offence of plagiarism, contrary section B.I.1.(d) of the *Code*;
3. **THAT** the following sanctions shall be imposed on Ms. G ■:
 - (a) she shall receive a final grade of zero in the course UNI209H;
 - (b) she shall be suspended from the University for 2 years from the date of this order for a period of two years (July 14, 2017); and
 - (c) the sanction be recorded on her academic record and transcript for 3 years from the date of this Order (July 14, 2018);
4. **THAT** this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with Ms. G ■'s name withheld.

Dated at Toronto this 28 day of September, 2015



Ms. Sarah Kraicer, Co-Chair