

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on November 30, 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

B E T W E E N:

UNIVERSITY OF TORONTO (the "University")

- AND -

J [REDACTED] Y [REDACTED] (the "Student")

REASONS FOR DECISION

Hearing Date: February 10, 2016

Panel Members:

Ms. Roslyn M. Tsao, Lawyer, Chair

Professor Pascal Van Lieshout, Department of Speech-Language Pathology, Faculty Panel Member

Mr. Michael Dick, Student Panel Member

Appearances:

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

Ms. Lucy Gaspini, Manager, Academic Integrity and Affairs, University of Toronto-Mississauga

Professor Kalina Staub, Instructor for ECO100: Introductory Economics, University of Toronto Mississauga

In Attendance:

Ms. Krista Osbourne, Administrative Assistant, Appeals, Discipline and Faculty Grievances

Not in Attendance:

Mr. J [REDACTED] Y [REDACTED], Student

1. The Trial Division of the Tribunal heard this matter on February 10, 2016. The Student was charged on November 30, 2015 under the following sections of the *Code*:
 - (a) plagiarism contrary to section B.I.1(d);
 - (b) obtaining of unauthorized assistance contrary to section B.I.1(b); and
 - (c) in the alternative, academic dishonesty contrary to section B.I.3(b),
 relating to an essay ("Assignment") submitted in ECO 100 ("Course") on or about November 10, 2014.

Hearing to Proceed in Absence of Student

2. The Student did not attend at the Hearing. The Tribunal waited until after the scheduled commencement of the Hearing to allow for the Student to appear.
3. The University presented evidence to the Tribunal confirming proper service of the Charges dated November 30, 2015 by e-mail to the Student's e-mail address contained in the Student's ROSI record.
4. The University presented evidence to the Tribunal confirming proper service of the Notice of Hearing dated January 20, 2016 and the Revised Notice of Hearing (revised only with respect to panel members) by e-mail to the Student's e-mail address contained in the Student's ROSI record. The Notice and Revised Notice of Hearing contain the requisite warning for non-attendance.
5. It is noted that on about May 1, 2015, the Student was suspended for one year under an academic suspension. Nevertheless, the University was able to confirm that the Student had last logged into his ROSI email account on July 23, 2015.
6. As service of the Charges and Notice of Hearing was effected in accordance with Paragraph 9(c) of the *Rules of Practice and Procedure*, the Panel proceeded with the Hearing in the absence of the Student.

Facts***Evidence of Professor Staub***

7. The University tendered Professor Staub via Skype from the University of North Carolina where she is now an instructor.
8. Professor Staub was the instructor of the Course at the relevant time. There were approximately 1000 students enrolled in the Course.
9. The Syllabus for the course confirmed the course requirements, including the Assignment at issue which was a writing assignment worth 4% of the course mark.
10. Professor Staub confirmed that she reviewed the seriousness of academic misconduct, including plagiarism, both in the Syllabus and in class. The Syllabus also made it clear that Turnitin.com would be used for the review of assignments to detect possible plagiarism.
11. The Assignment was an essay due in early November, 2015. The students wrote about a newspaper article or a podcast (there was only one choice of newspaper article and one choice of podcast offered by the Professor). The newspaper article or podcast was to be analyzed in the context of concepts covered in class and their application to the real world. It was an individual assignment without collaboration.
12. The Student submitted his essay to Turnitin on November 10, 2014. Turnitin reported a "Similarity Index" of 47% to submissions of another student(s).
13. Based on the indication of Turnitin of a "very high" similarity, Professor Staub, reviewed the Student's Assignment and the identified primary source document, namely, an essay by another student ("Student Y") in the same Course that was submitted 3 days earlier on November 7, 2014. Professor Staub considered whether the similarities were explicable/innocuous or indicative of academic misconduct.
14. Professor Staub concluded that the similarities between structure, phrases, grammatical errors and the same peculiar use of "Externality Cost" instead of "External Cost" could not have been innocuous. Professor Staub explained that although the (mis-)use of the

term "externality" is not unique, it is not common and, in the context of the foregoing similarities, she concluded that the students should be notified about her concerns.

15. Professor Staub did not have her subsequent emails to the Student (and Student Y) but was able to review her covering letter to the Dean's Office when referring the matter to confirm that she had emailed the Student 3 times and received no response. In the same manner, Professor Staub also confirmed that she had emailed Student Y 3 times by email and received no response. Professor Staub indicated that the emails would have escalated in their caution to the Student, warning that the matter would be referred to the Dean's Office if there was no response.
16. Professor Staub was asked by the Panel whether the due date was November 7th for the Assignment and she advised that recalled that the due date might have been extended to November 11th.

Comparison of Assignments from Student and Student Y

17. The following observations can be made upon reviewing the two Assignments:
 - (a) the Y Assignment (by Student Y) was submitted first and has a word count of 508;
 - (b) the Student's Assignment was submitted three days later and has a word count of 332.
 - (c) the structure of the Assignments, viewed paragraph by paragraph, and placement of first graph are too similar to be by chance;
 - (d) the grammatical errors and language syntax are too similar to be by chance; and
 - (e) the differences between the Student's Assignment and the Y Assignment are often attributable to the use of synonyms in place of the other wording in the same "location".

Decision of the Tribunal

18. The Panel carefully reviewed the two Assignments. Although the Panel was of the view that the Assignment by Student Y was likely the origin material for the Student's Assignment as opposed to vice versa, the Panel did not need to reach a definitive conclusion on that issue because of Section B.ii.1(a)(ii) and/or (iv) of the *Code*:

B.ii.1(a) Every member is a party to an offence under this Code who knowingly:

 - (i) actually commits it;
 - (ii) **does or omits to do anything for the purpose of aiding or assisting another member to commit the offence;**
 - ...
 - (iv) **abets, counsels, procures or conspires with a another member to commit or be a party to an offence;...**
19. It is not necessary for the Panel to decide whether it was the Student or Student Y who drafted the original content of the Assignments, whether Student Y and the Student collaborated to draft their individual Assignments or whether the Student copied Student Y's Assignment or vice versa – all of these scenarios will attract a finding of guilt provided that we conclude that the Students collaborated or that Student Y and/or the Student was aware that his work or the other's was being used for assistance.
20. The Panel finds that there is clear and convincing evidence that either, the students collaborated or that one of them (likely Student Y) knowingly made his work available to the other to copy. The deliberate and strategic changes to word choices in the Assignment cannot disguise the evident and indisputable similarities in structure, syntax and grammatical errors.
21. Based on the findings above, the Student is found guilty of plagiarism contrary to section B.I.1(d) of the *Code* and of obtaining unauthorized assistance contrary to section B.I.1(b) of the *Code*.

22. The University did not withdraw the alternative charge but did not pursue a finding thereon.

Penalty

23. The University sought the following penalty:
- (a) a zero in the Course;
 - (b) a two (2) year suspension from the University commencing February 10, 2016; and
 - (c) a notation of the sanction on the Student's academic record and transcript for three (3) years.
24. The Student has no prior record of academic misconduct. He has been subject to a one year academic suspension since May 1, 2015. The University is not seeking the suspension to be consecutive to the concurrent suspension.
25. Although the Panel finds that the Student's failure to respond to the Professor's email about the Assignment to be an aggravating factor, the Tribunal accepts the University's recommended penalty considering the circumstances in this case and sanctions granted in similar cases.
26. An Order has been signed by the Panel to this effect.
27. The Tribunal is to report this decision to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed in the University's newspapers, with the name of the Student withheld.

Dated at Toronto, this 25th day of February, 2016



Roslyn Tsao, Chair