

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO
TRIAL DIVISION**

IN THE MATTER OF charges of academic dishonesty filed on April 27, 2020,

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:

THE UNIVERSITY OF TORONTO

– AND –

J. [REDACTED] H. [REDACTED] (the “Student”)

Hearing Date: August 6, 2020 (via Zoom)

Members of the Panel:

Mr. Dean F. Embry, Chair

Professor Kimberley Widger, Faculty Panel Member

Ms. Emily Hawes Student Panel Member

Appearances:

Ms. Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein Barristers

Hearing Secretary:

Ms. Krista Kennedy, Hearing Secretary and Administrative Clerk, Office of Appeals, Discipline and Faculty Grievances, University of Toronto

Not in Attendance:

The Student

I. CHARGES

1. The Trial Division of the Tribunal held a hearing on August 6, 2020 to address the following charges brought by the University of Toronto (the “University”) against J■■■■ H■■ (the “Student”) under the *Code of Behaviour on Academic Matters* (the “Code”):
 1. On or about April 1, 2019, you knowingly represented as your own an idea or expression of an idea or work of another in an assignment you submitted in CSC148H1 (the “Course”), contrary to section B.I.1(d) of the *Code*.
 2. In the alternative, on or about April 1, 2019, you knowingly obtained unauthorized assistance in connection with an assignment that you submitted in the Course, contrary to section B.I.1(b) of the *Code*.
 3. In the further alternative, on or about April 1, 2019, you knowingly engaged 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 in connection with an assignment you submitted in the Course, contrary to section B.I.3(b) of the *Code*.

II. PRELIMINARY ISSUE: Proceeding in the Absence of the Student

2. The Student was neither present nor represented. The University filed evidence that the Student was served with the charges by email at the email address provided by the Student to the University of Toronto in ROSI on April 27, 2020.
3. Further, the University filed evidence that on July 20, 2020 the Student was served with the Notice of Hearing, again via the email address provided in ROSI.
4. It should be noted that both the scheduling of the hearing and the hearing itself took place during the COVID-19 pandemic. On July 10, 2020, due to the physical restrictions necessitated by that pandemic, Assistant Discipline Counsel requested that the hearing proceed electronically. The Student was advised of this request by email and was given a deadline of July 17, 2020 to provide submissions in relation to this request. No reply from the student was ever received and the hearing was ordered and scheduled to proceed electronically as above.

5. In addition to the above, the University filed evidence demonstrating that efforts were made to ensure the Student was aware of the hearing and in a position to attend. In addition to the service of documents outlined above correspondence via email was sent to the Student which included invitations for discussion, efforts to arrange scheduling, disclosure of material and reminders of the hearing. All went unanswered.
6. Given the above the Panel found that the Student was provided with reasonable notice and proper service as contemplated by sections 14 and 9 of the Tribunal's *Rules of Practice and Procedure* (the "*Rules*"). As such, the hearing proceeded in the Student's absence.

II. SUMMARY OF FACTS/PARTICULARS

7. The Panel received affidavit evidence from Professor Jacqueline Smith who while not in attendance at the hearing was available to answer any questions should they arise.
8. The allegations against the student concerned "Assignment 2" for Course CSC148H1S (Introduction to Computer Science). This assignment required students to write an interactive treemap visualization tool. Students were provided with "starter code" which they were required to build on to create the envisioned tool.
9. The Course in question was taught at both the St. George and University of Toronto Mississauga campus at the same time. Courses at both campuses incorporated the same assignment and the same "starter code". However, two non-operative changes were made to the starter code to differentiate between the two campuses. These changes both concerned the spelling of words within the code and had no effect on how the code operated.
10. Although students were permitted to work with a partner to complete the assignment, students wishing to do so were required to form a group on "MarkUs" to indicate who they would be working with. The Student did not form a group in relation to this assignment.
11. Due to the nature of programming language and logic as well as optional non-operative features of code such as variable names and comments, there was an infinite number of different ways that students could build on the starter code to create the treemap visualization tool.
12. The Student turned in his assignment and it was submitted through Moss, software that is used to detect similarities between student submissions. Moss detected substantial similarities between the

Student's work and assignments turned in by a UTM student as well as two students at the St. George campus.

13. When Professor Smith compared the Student's assignment with that submitted by the UTM student she discovered that the assignments were identical with the exception of some spacing differences. Professor Smith noted that the Student's assignment contained the UTM starter code and not the starter code provided to St. George campus students.
14. When Professor Smith compared the Student's assignment with those submitted by the two students at St. George campus she discovered that there were substantial similarities between the operational portions of the Code with the only differences being non-functional portions of the Code.
15. Professor Smith met with the two other St. George campus students. The students apparently admitted that they found portions of the code they submitted online.

III. ARGUMENT OF THE UNIVERSITY

16. The University argues that the infinite possibilities available to a student in completing the assignment combined with the identical contents, in relation to the assignment turned in by the UTM student, and the substantial similarities, in relation to the assignments turned in by the two other St. George students is decisive proof that the Student plagiarized his assignment.

IV. FINDINGS OF THE PANEL

17. The Panel agrees that the identical or substantially similar contents of the Student's assignment when compared with the assignments of other students justifies a finding of guilt.
18. It should be noted that the Panel considered the possibility that the Student generated original code and that his own original work was somehow shared with or accessed by other students without his knowledge. In such a circumstance the Student would be not guilty of the offences charged. However, the fact that the Student's assignment contained the UTM starter code and not the starter code that he was provided makes this possibility extremely unlikely. Further, in coming to its conclusion the Panel did not rely on the hearsay statement of the two St. George students who admitted that they found "portions" of code they found online chiefly because it was unnecessary to do so.
19. Given the above, the Panel finds the Student guilty of one count of knowingly representing an idea or expression of an idea or work of another as his own, contrary to section B.I.1.(d) of the *Code*

V. SANCTION

20. The University submitted that an appropriate sanction was a mark of zero in the course, a two-year suspension and a three-year notation of sanction. The University provided thorough and helpful authorities of similar cases to justify this sanction and asked the Panel to consider the nature of the offence as well as the character of the Student.
21. In particular, the University noted that the Student did not co-operate with or participate in the process at all. The University asked the Panel to take this non-participation as evidence of a lack of insight or remorse on behalf of the student in relation to the offence and a lack of respect for the process. The lack of insight or remorse, the University argued, also gives rise to a concern that the Student might repeat the offending behavior. In this way the lack of participation of the Student, the University urged, should be treated as an aggravating factor.
22. The Panel declines to treat the Student's lack of co-operation or participation in the process as an aggravating factor. While the non-attendance of the Student results in the absence of evidence of remorse or insight which might have served as mitigating factors, the non-attendance of the Student is not evidence that the Student has no insight or is not remorseful. Simply put, there is no evidence as to why the Student did not participate in the process and did not attend the hearing and it would therefore be improper to infer anything from that lack of participation or attendance.
23. That said, given the nature of the offence and in the absence of any mitigating factors we find that the sanction suggested by the University is an appropriate one. Plagiarism strikes at the very heart of academic integrity and therefore attracts a significant sanction.

VI. ORDER OF THE PANEL

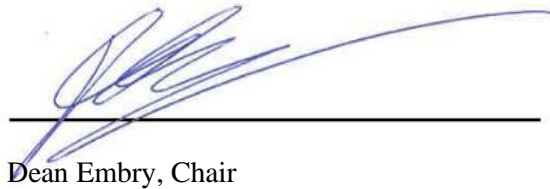
24. At the conclusion of the hearing, the Panel conferred and made the following order:
 1. **THAT** the Student is guilty of one count of knowingly representing an idea or expression of an idea or work of another as his own, contrary to section B.I.1.(d) of the *Code*;
 2. **THAT** the following sanctions shall be imposed on the Student:
 - (a) a final grade of zero in the course CSC148H1 in Winter 2019;

(b) a suspension from the University of Toronto from the date of this order for a period of two years, ending on August 5, 2022; and

(c) a notation of the sanction on his academic record and transcript from the date of this order for a period of three years, ending on August 5, 2023; and

3. **THAT** this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with Mr. H [REDACTED] name withheld.

DATED at Toronto, November 2, 2020



Dean Embry, Chair