

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty filed on July 21, 2021,

**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 am. S.O. 1978, c. 88

**B E T W E E N:**

**THE UNIVERSITY OF TORONTO**

**- and -**

**M [REDACTED] K [REDACTED]**

**REASONS FOR DECISION**

**Hearing Date:** September 24, 2021, via Zoom

**Panel Members:**

Ms. Michelle S. Henry, Chair

Professor Joseph Clarke, Faculty Panel Member

Mr. Branden Cave, Student Panel Member

**Appearances:**

Mr. Robert Centa, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Mr. Ahmed Elahi, Articling Student, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

Ms. Nadia Bruno, Special Projects Officer, Appeals Discipline and Faculty Grievances

**Not in Attendance:**

**M [REDACTED] K [REDACTED]**

1. A hearing of the Trial Division of the University Tribunal convened on September 24, 2021, to consider academic charges brought by the University of Toronto (the “University”) against M■■■■ K■■■■ (the “Student”) under the *Code of Behaviour on Academic Matters*, 1995 (the “Code”).
2. The Student was informed of the charges by letter dated July 21, 2021, from Professor Heather Boon, Vice-Provost, Faculty & Academic Life.

### **PRELIMINARY ISSUE: PROCEEDING IN THE ABSENCE OF THE STUDENT**

3. The hearing was scheduled to commence at 9:45 a.m. via Zoom. The Tribunal waited until 10:00 a.m. before commencing the hearing. The Student did not appear at the hearing.
4. 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 a 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. In this case, the University requested that the Tribunal proceed with the hearing in the absence of the Student.
5. Pursuant to Rule 9, a Notice of Hearing may be served on a student by various means, including: sending a copy of the document by courier to the student’s mailing address contained in the Repository of Student Information (“ROSI”); or emailing a copy of the document to the student’s email address contained in ROSI.
6. Further, the University’s *Policy on Official Correspondence with Students* (“Policy”) states that students are responsible for maintaining a current and valid postal address and an University-issued email account in ROSI. The Policy makes it clear that 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.
7. In this case, the University filed Affidavits regarding the correspondence to the Student providing notice of the charges and notice of the electronic hearing. The Affidavit of Justine Cox, sworn August 6, 2021, confirmed that on July 21, 2021, Ms. Cox served the Student with the charges issued by Professor Heather Boon. Ms. Cox served the Student with the charges by e-mail to the University-issued email account, which was the email address of the Student contained in ROSI.
8. The Affidavit of Samanthe Huang, sworn on August 23, 2021, confirmed that, on August 20, 2021, Ms. Huang served the Notice of Electronic Hearing. She served the Student with

the Notice of Electronic Hearing by email to the email address of the Student contained in ROSI.

9. It is clear from the evidence that the Student was no longer accessing his University-issued email account at the time he was served with the charges and the Notice of Electronic Hearing. The Affidavit of Nav Uppal, Academic Integrity Specialist, which was sworn on September 9, 2021, states that, in response to the University's attempts to set up a meeting to discuss the allegations against the Student, on June 25, 2021, the Student emailed their office to advise that he had withdrawn from the University. Mr. Uppal's office continued to try to set up a meeting with the Student, but he did not respond to any of their subsequent messages.
10. Further, the Affidavit of Andrew Wagg, an Incident Report Architect at Information Security, Information Technology Services at the University, sworn on September 3, 2021, states that he checked the portal records to determine the last time someone accessed the email account belonging to the Student. Mr. Wagg determined that the last time someone accessed this e-mail account was on June 25, 2021 at 6:21 PM. As such, the email account was not accessed after the charges and Notice of Electronic Hearing were served by email.
11. Notwithstanding the above, in addition to service by email, the documents were sent to the Student's last known mailing address. The Affidavit of Sharon Hawley, an assistant at Paliare Roland Rosenberg Rothstein LLP, counsel for the University, confirms that on August 24, 2021, counsel for the University sent a letter by regular mail to the mailing address contained in ROSI. The letter enclosed the following documents: the charges issued on July 21, 2021; a disclosure letter to the Student dated August 5, 2021; and, the Notice of Electronic Hearing, dated August 20, 2021
12. Having reviewed the evidence and heard the submissions of counsel for the University, the Tribunal concluded that the Student was given reasonable notice of the hearing in accordance with the notice requirements set out in the Act and the Rules. Accordingly, the Tribunal proceeded to hear the case on its merits in the absence of the Student.

## **THE CHARGES**

13. At all material times, the Student was a registered student at the University. The University alleges that the Student knowingly committed plagiarism in a position paper that he submitted for the purposes of obtaining academic credit and/or other academic advantage.
14. The University brought the following three charges against the Student:

- a. On or about February 24, 2021, the Student knowingly submitted, without the knowledge and approval of the instructor to whom it was submitted, an essay in ENV199H1S 2021(1) - Understanding and Debating Environmental Issues (the “Course”), for which credit had previously been obtained in another course at the University, contrary to section B.I.1(e) of the Code.
  - b. On or about February 24, 2021, the Student knowingly represented as his own an idea or expression of an idea, and/or the work of another in an essay which he submitted in partial completion of the requirements for the Course, contrary to section B.I.1(d) of the Code.
  - c. In the alternative to the above charges, that the Student 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 contrary to section B.I.3(b) of the Code.
15. The University alleges that in the Winter 2021, the Student registered in the Course, which was taught by Dr. Karen Ing, an Associate Professor, Teaching Stream, at the University, St. George Campus, in the School of Environment of the Faculty of Arts and Science (“Dr. Ing”). The Student submitted an essay titled, “Climate Change: How can we scientifically refute sayings that Climate Change is entirely naturally occurring?” in partial completion of the Course requirements. However, the Student had previously submitted some or all of this essay for academic credit in GGR101H1 — Histories of Environmental Change (“GGR101”). The Student had completed GGR101 in the Fall 2020.
16. The Student did not seek or obtain permission from Dr. Ing to submit this essay, in whole or in part, for a second time.

## **THE EVIDENCE**

17. The Tribunal received Affidavit evidence of Dr. Ing. Her evidence was as follows.
18. In Winter 2021, Dr. Ing taught the Course, which the Student was enrolled in during the Winter 2021 academic term. Dr. Ing prepared the syllabus for the Course for the Winter 2021 term.
19. Dr. Ing included in the syllabus a section titled “Academic Integrity”, which stressed the importance of academic integrity in the completion of assignments and exams for the Course. She advised students in the Course that they were required to familiarize themselves with the standards of academic behaviour set out in the Code. She also included a hyperlink to the Code in the syllabus, and specifically warned students that the Code

prohibited Student from “submitting your own work in more than one course without the permission of the instructor”.

20. As part of the Course, Dr. Ing required students to submit a position paper worth 25% of their final grade. The deadline to submit the paper was February 14, 2021. Dr. Ing instructed students to write 2500 words and take a stance on an issue related to climate change. All students were required to submit their position papers through Turnitin.com.
21. On February 24, 2021, the Student submitted the position paper. The Student’s position paper generated a very high Turnitin.com similarity index of 71%. The source of the similar text was another assignment submitted by the Student to a University course.
22. As a result, Dr. Ing discovered that during the Fall 2020 term, the Student previously submitted the paper for academic credit in GGR 101.
23. Dr. Ing’s evidence was that the Student never asked her for permission to submit the previous assignment, in whole or in part, in the Course and she never gave him that permission.
24. Dr. Ing stated that she met with the Student via Zoom on March 19, 2021, to discuss her concerns regarding the position paper. Following the meeting, on March 25, 2021, Dr. Ing submitted a report to the Student Academic Integrity Office containing her concerns with respect to the Student’s position paper.

## **DECISION OF THE TRIBUNAL ON CHARGES**

25. Having considered all the evidence heard during the hearing, and in particular the Affidavit evidence, the Tribunal found that:
  - a. On or about February 24, 2021, the Student knowingly submitted, without the knowledge and approval of the instructor to whom it was submitted, an essay in ENV1999H1S 2021(1)—Understanding and Debating Environmental Issues for which credit had previously been obtained in another course at the University, contrary to section B.I.1(e) of the Code; and
  - b. The Student is guilty of one count of the academic offence of resubmission of an essay for which credit had previously been obtained in another course at the University, contrary to section B.I.1(e) of the Code.

26. Accordingly, the Tribunal entered a finding of guilty with respect to the first charge, as outlined in paragraph 14 (a).
27. Given the findings with respect to the first charge, the University withdrew Charges 2 and 3.

## **DECISION OF THE TRIBUNAL ON PENALTY**

28. The Tribunal heard submissions regarding the appropriate penalty in this case, reviewed relevant past decisions of the Tribunal submitted by the University, and considered the factors set out in *University of Toronto* and *C.* (File 1976/77-3; dated November 5, 1976).
  - a. **The character of the Student.** The Student did not participate in the proceeding. Accordingly, there was no evidence before the Tribunal regarding the Student's character other than the facts relating to this offence and the lack of responses from the Student.
  - b. **The likelihood of a repetition of the offence.** The Student did not have a prior record of academic offences. However, given the Student's failure to attend the meeting with the Dean's Designate, or attend the hearing, the Tribunal was unable to make any findings regarding the likelihood of a repetition of this offence.
  - c. **The nature of the offence committed.** The Tribunal took into consideration the serious and deliberate nature of the offence and the detriment to the University. This was the Student's own work that was resubmitted, which, arguably, is not as egregious as submitting the work of another person as your own. However, resubmission of an essay for which credit had previously been obtained is a serious offence that is expressly noted in the Code. The Student was required to seek permission of his professor prior to doing so.
  - d. **Any extenuating circumstances surrounding the commission of the offence.** As indicated above, the Student did not participate in this hearing. As such, there was no evidence before the Tribunal of mitigating or extenuating circumstances.
  - e. **The need to deter others from committing a similar offence.** General deterrence is an important factor in these cases. The Tribunal accepts that the University and the Tribunal must send a strong message to other students that such misconduct is considered a serious offence.
29. The University presented a number of cases dealing with plagiarism. However, none of the cases were factually similar, in that none of the cases related to charges where the

Student had resubmitted his own work. Having said that, the actions of the Student does constitute plagiarism. Such misconduct is expressly prohibited by the Code.

30. Having regard to the submissions of the University, and the relevant factors outlined above, the Tribunal agrees that the sanctions are appropriate. At the conclusion of the hearing, the Tribunal made the following Order:

- a. The Student is guilty of one count of the academic offence of resubmission of an essay for which credit had previously been obtained in another course at the University, contrary to section B.I.1(e) of the *Code of Behaviour on Academic Matters*;
- b. The following sanctions shall be imposed on the Student:
  - i. a final grade of zero in ENV199H1S, 2021(1);
  - ii. a suspension from the University for two years from the date of this order; and,
  - iii. a notation of the sanction on his academic record and transcript for three years from the date of this order.
- c. This case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanctions imposed, with the name of the Student withheld.

DATED at Toronto, December 16, 2021.

Original signed by:

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Michelle S. Henry, Co-Chair

On behalf of the Tribunal