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THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on January 10, 2022,

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

- and -

Y■■■■ P■

REASONS FOR DECISION

Hearing Date: August 12, 2022, via Zoom

Panel Members:

Ms. Michelle S. Henry, Chair
Professor George Cree, Faculty Panel Member
Mr. Karim Wanes, Student Panel Member

Appearances:

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

Hearing Secretary:

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

Not in Attendance:

Ms. Y■■■■ P■

1. A Hearing of the Trial Division of the University Tribunal convened on August 12, 2022, to consider academic charges brought by the University of Toronto (the “University”) against Y■■■■ P■ (the “Student”) under the Code of Behaviour on Academic Matters, 1995 (the “Code”). The Student was informed of the charges by letter dated January 10, 2022, from Professor Heather Boon, Vice-Provost, Faculty & Academic Life. The Student was also informed of the hearing by a Notice of Electronic Hearing dated July 25, 2022. The hearing was scheduled for August 12, 2022.

PRELIMINARY ISSUE: PROCEEDING IN THE ABSENCE OF THE STUDENT

2. 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.
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 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.
4. 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.
5. 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 a 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.
6. 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 Samanthe Huang, Administrative Assistant with the Appeals, Discipline and Faculty Grievances Office, sworn August 5, 2022, confirmed that on January 10, 2022, Ms. Huang served the Student with the charges issued by Professor Heather Boon. Ms. Huang 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. Further, on July 25, 2022, 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.

7. It is clear that the Student was no longer accessing her University-issued email account at the time she was served with the charges and the Notice of Electronic Hearing. The Affidavit of Andrew Wagg, Manager, Incident Response at Information Security, Information Technology Services at the University, sworn on July 28, 2022, 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 November 23, 2021. As such, the email account was not accessed after the charges and Notice of Electronic Hearing were served by email. However, as noted below, the Student would have been aware that meetings with the Dean's Designate were scheduled to discuss the allegation that she had engaged in academic misconduct, as those invites we sent prior to the last date of email access.
8. The Affidavit of Kimberly Blake, a legal assistant at Paliare Roland Rosenberg Rothstein LLP, counsel for the University, confirms that on July 13, 2022, she attempted to call the Student using the telephone contained in ROSI. The telephone number provided was in China. The calls to the telephone number went to an operator's recording that the number was not in service.
9. 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

10. At all material times, the Student was a registered student at the University of Toronto Scarborough ("UTSC"). The University alleges that the Student knowingly committed plagiarism in an assignment that she submitted for the purposes of obtaining academic credit or other academic advantage.
11. The University brought the following three charges against the Student:
 - a. On or about December 5, 2020, the Student knowingly represented as her own an idea or expression of an idea or work of another in an assignment in CSCA08H3 (the "Course"), contrary to section B.I.1(d) of the Code.
 - b. In the alternative, on or about December 5, 2020, the Student knowingly obtained unauthorized assistance in connection with an assignment in the Course, contrary to section B.I.1(b) of the Code.

- c. In the further alternative, on or about December 5, 2020, 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 of any kind in connection with an assignment in the Course, contrary to section B.I.3(b) of the Code.
12. The Student first registered at UTSC in the Fall 2018 term. As of July 6, 2022, the Student had earned 8.50 credits. The University alleges that in the Fall 2020, the Student enrolled in CSCA08H3 (Introduction to Computer Science), which was taught by Anya Tafliovich and Nick Cheng. Students in the Course were required to submit three assignments, worth 8%, 12% and 16% of their final grades in the Course. On December 5, 2020, the Student submitted Assignment #3 in the Course. The University alleges that the Student submitted Assignment #3 knowing that it contained ideas, expressions of ideas or work which were not her own, but were the ideas, expressions of ideas or work of others, including another student in the Course (the “Other Student”); and that the Student did not properly reference the ideas, expressions of ideas or work that you drew from the Other Student or others.
13. The University further alleges that the Student:
 - a. knowingly aided, assisted, abetted, counselled, procured or conspired with the Other Student or others to commit the offence of plagiarism in Assignment #3;
 - b. knowingly obtained unauthorized assistance on Assignment 3 from the Other Student or others, and/or aided, assisted, abetted, counselled, procured or conspired with the Other Student or others to obtain unauthorized assistance in Assignment #3; and
 - c. knowingly submitted Assignment #3 in the Course with the intention that the University of Toronto Scarborough rely on it as containing her own ideas or work in considering the appropriate academic credit to be assigned to her work.

THE EVIDENCE

14. The Tribunal received Affidavit evidence of Anya Tafliovich, a Professor (Teaching Stream) in the Department of Computer and Mathematical Sciences at UTSC. Professor Tafliovich’s evidence was as follows.
15. The Student enrolled in the Course in Fall 2020. The Course was designed to introduce students to the discipline of computer science and to teach students the basics of programming using Python, a widely used state-of-the-art programming language.
16. Students in the Course were told about the importance of academic integrity. The Course outline provided as follows:

Policy on collaboration

Do not use another person's work. Sharing your work with others (even if they promise to only consult with your work and not copy any parts of it) is a violation of this policy. Using a solution found on the web is a violation of this policy. If challenged by either a tutor or the instructor, you must be able to reproduce and explain any work you submit in an oral exam. Failure to observe this policy is an academic offence, carrying a penalty ranging from a zero on a homework or a test to suspension from the university.

17. Assignment #3 in the Course was due on December 7, 2020. Students were required to write computer code to complete the requirements of the assignment. Students were required to complete the assignment independently.
18. On December 5, 2020, the Student submitted her code for Assignment #3. On December 6, 2020, the Other Student submitted Assignment #3. Both students' codes were uploaded to Measure of Software Similarity ("MOSS") in order to detect textual similarities with the assignments submitted by other students in the Course. MOSS revealed that the Student's and the Other Student's answers to Assignment #3 contained code that was virtually identical, with only certain variables having been named differently.
19. Professor Tafliovich's evidence was that the degree of similarity between the code submitted by the Other Student was highly suspicious, as, in her experience, the chances of two students independently developing such similar solutions are virtually zero. Professor Tafliovich's suspicion was that either one solution was copied from the other, or that both solutions were obtained from the same shared (unauthorized) source. She provided the following particulars to support her conclusion:
 - a. Students were not provided with the algorithms for the functions, only the input-output requirement. There are countless ways in which these functions can be implemented.
 - b. Certain functions in both students' code were basically the same, line by line.
 - c. Certain helper functions were not required as part of the solution to Assignment #3, yet both students' solutions included these exact same functions, with the exact same names. Additionally, these function names did not follow Course convention.
 - d. In several places, both the students' solutions used a format that was not taught in the Course, but was taught at St. George Campus. The fact that both students used the format taught at the St. George Campus suggests that the solution they both submitted was obtained from someone who had access to the St. George Campus

assignment and the students did not realize there was a slight difference in the formats.

20. On December 29, 2020, Professor Tafliovich sent an email to all students in the Course whose answers to Assignment #3 were found to be similar to that of other students in the class, including the Student and the Other Student.
21. On January 3, 2021, the Student sent Professor Tafliovich an email reply in which the Student denied copying from other sources on Assignment #3.
22. On January 11, 2021, Professor Tafliovich sent the students a follow up email in which they were offered the opportunity to accept a penalty of a mark of zero on the Assignment #3, or an opportunity to book a meeting if they disagreed with the allegation that they had committed academic misconduct on Assignment #3. After receiving her email, the Other Student wrote to Professor Tafliovich on February 20, 2021 to indicate that the Other Student would accept a mark of 0 on Assignment #3.
23. On August 3, 2021, the Office of the Vice-Principal Academic & Dean at UTSC sent the Student an email inviting her to a meeting with Professor Cheng on August 19, 2021 to discuss the alleged academic offence in Assignment #3. The Student was sent a reminder of this meeting on August 18, 2021. The Student did not respond to either communication. The Student did not attend a meeting with Professor Cheng on August 19, 2021.
24. On October 6, 2021, the Office of the Vice-Principal Academic & Dean at UTSC sent the Student an email indicating their meeting with Professor Cheng had been rescheduled to October 21, 2021. The Student was sent a reminder of this meeting on October 20, 2021. The Student again did not respond to either communication. The Student did not attend a meeting with Professor Cheng on October 21, 2021.
25. As noted above, the last time someone accessed the Student's e-mail account was on November 23, 2021. As such, the Student ought to have received the meeting invites.

DECISION OF THE TRIBUNAL ON CHARGES

26. Having considered all the evidence heard during the hearing, and in particular the Affidavit evidence, the Tribunal found that:
 - a. On or about December 5, 2020, the Student knowingly represented as her own an idea or expression of an idea or work of another in an assignment in CSCA08H3— Introduction to Computer Science, contrary to section B.I.1(d) of the Code; and,

- b. the Student is guilty of one count of knowingly representing an idea or expression of an idea or work of another as their own, contrary to section B.I.1.(d) of the Code;
27. Accordingly, the Tribunal entered a finding of guilty with respect to the first charge, as outlined in paragraph 12 (a).
28. Given the findings with respect to the first charge, the University withdrew Charges 2 and 3.

DECISION OF THE TRIBUNAL ON PENALTY

29. 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 and did not attend any meeting with the Dean's Designate. 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. There is no evidence of any remorse or that the Student was willing to take responsibility for her actions.
 - b. **The likelihood of a repetition of the offence.** The Student did not have a prior record of academic offences. However, as the Student failed to attend the meeting with the Dean's Designate, or 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. It is well established that plagiarism and the use of third party sources are considered serious offences that strike at the heart of academic integrity.
 - d. **Any extenuating circumstances surrounding the commission of the offence.** The onus is on the Student to put forward any mitigating circumstances. 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.

30. The University presented a number of cases dealing with plagiarism and unauthorized assistance; however, none of the cases dealt with coding specifically. The Tribunal was satisfied on a balance of probabilities that the Student obtained the code from a third party source, and the actions of the Student does constitute plagiarism. Such misconduct is expressly prohibited by the Code.
31. 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 knowingly representing an idea or expression of an idea or work of another as their own, contrary to section B.I.1.(d) of the Code ;
 - b. The following sanctions shall be imposed on the Student:
 - i. **THAT** the following sanctions shall be imposed on the Student:
 1. a final grade of zero in the course CSCA08H3 in Fall 2020;
 2. a suspension from the University of Toronto from the date of this order for a period of 2 years, ending on August 11, 2024; and
 3. a notation of the sanction on their academic record and transcript from the date of this order for a period of 3 years, ending on August 11, 2025; and
 - ii. **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.

DATED at Toronto, October 31, 2022.

Original signed by:
Ms. Michelle S. Henry, Co-Chair
On behalf of the Tribunal