

**THE UNIVERSITY TRIBUNAL  
THE UNIVERSITY OF TORONTO**

**IN THE MATTER OF** charges of academic dishonesty made on October 4, 2022, and October 26, 2022,

**AND IN THE MATTER OF** the University of Toronto *Code of Behaviour on Academic Matters, 2019*,

**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 -**

**B ■■■■ L ■ & X ■■■■ Y ■■■■**

**REASONS FOR DECISION**

**Hearing Date:** April 28, 2023, via Zoom

**Members of the Panel:**

Dean F. Embry, Chair

Professor Ian Crandall, Faculty Panel Member

Brinda Batra, Student Panel Member

**Appearances:**

William Webb, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

**Hearing Secretary:**

Carmelle Salomon-Labbé, Associate Director, Office of Appeals, Discipline and Faculty Grievances

**Not in Attendance:**

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## **I. CHARGES**

1. The Trial Division of the Tribunal held a hearing on April 28, 2023, to address two sets of charges brought by the University of Toronto (the “University”) against B■■■■ L■ (“B.L.”) under the *Code of Behaviour on Academic Matters, 2019* (the “Code”). The first set of charges concerned the course ECO2201Y1:
  1. On or about the following dates, you knowingly obtained and/or provided unauthorized assistance in connection with the following term tests in ECO2201Y1, contrary to section B.I.1(b) of the Code:
    - (a) December 4, 2020 in connection with Term Test 2; and
    - (b) February 26, 2021 in connection with Term Test 3.
  2. In the alternative to Charges #1(a) to (b), respectively, on or about the following dates, you knowingly represented as your own an idea or expression of an idea or work of another in connection with the following term tests in the Course, contrary to section B.I.1(d) of the Code:
    - (a) December 4, 2020 in connection with Term Test 2; and
    - (b) February 26, 2021 in connection with Term Test 3.
  3. In the further alternative to Charges #1(a) to (b) and #2(a) to (b), respectively, on or about the following dates, 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 the following term tests in the Course, contrary to section B.I.3(b) of the Code:
    - (a) December 4, 2020 in connection with Term Test 2; and
    - (b) February 26, 2021 in connection with Term Test 3.
2. The second set of charges against B.L. concerned the course MAT133Y1
  1. On or about April 22 or 23, 2021, you knowingly represented as your own an idea or expression of an idea or work of another in the final assessment in MAT133Y1, contrary to section B.I.1(d) of the Code.
  2. In the alternative, on or about April 22 or 23, 2021, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in connection with the final assessment in MAT133Y1, contrary to section B.I.1(b) of the Code.

3. As will be discussed below, at the same April 28, 2023 hearing, The Trial Division of the Tribunal held a hearing to address charges brought by the University of Toronto (the “University”) against X■■■ Y■■■ (“X.Y.”) under the Code. Those charges were as follows:

1. On or about April 22 or 23, 2021, you knowingly represented as your own an idea or expression of an idea or work of another in the final assessment in MAT133Y1, contrary to section B.I.1(d) of the Code.
2. In the alternative, on or about April 22 or 23, 2021, you knowingly used or possessed an unauthorized aid or aids or obtained unauthorized assistance in connection with the final assessment in MAT133Y1, contrary to section B.I.1(b) of the Code.

## **II. PRELIMINARY ISSUE: Motion to Hear the Matters Together**

4. As will be discussed in more detail below, each Student received notice of the charges against them and notice of the hearing dates in the ordinary course. B.L.’s hearing was scheduled to take place on April 28, 2023 at 9:45 a.m. X.Y.’s hearing was scheduled to take place at the same time, though it was contemplated that the hearings would run one after the other.

5. On April 13, 2023, Assistant Discipline Counsel sent both students separate emails containing secure links to further disclosure in their matters. Assistant Discipline Counsel also informed both students that due to the nature of the supplementary disclosure the Provost intended to bring a motion in writing for an order that the merits of the proceedings against B.L. and X.Y. be heard at the same time.

6. Also on April 13, 2023, a motion record regarding this request was forwarded to the Chair of this Panel. After reviewing the material, the Chair of this Panel advised that the motion would be heard at the outset of the hearings on April 28, 2023. This deferral of the decision of the motion was made so that the students had a chance to respond to the motion should they wish to, given that the motion was only served 15 days before the hearings. Pursuant to this ruling the University’s motion was heard at the outset of the hearings on April 28, 2023. At the beginning of the hearing neither of the students were in attendance.

### **Argument of the University to Join the Hearings**

7. The University submitted that the hearing regarding the two students ought to be joined because the sets of charges related to MAT133 class had questions of law or mixed fact and law in common, involved the same parties and arose out of the same occurrences. Specifically, it was alleged that both students cheated on the same test in the same course by the same means – using answers found posted to Chegg – a subscription-based website that allows students to post questions and receive answers. The University submitted that given the similarities in the two cases, hearing them together would be

beneficial insofar as it would avoid the need to call identical evidence twice and would avoid potentially inconsistent verdicts. It was also submitted that hearing the matters back to back could be prejudicial to at least one of the students insofar as it would be difficult for the Panel to approach the evidence in the second hearing objectively having already made a decision with respect to that exact same evidence in relation to the first hearing.

8. Initially the Panel had concerns with hearing the matters together. Specifically, the Panel questioned whether, despite the factual similarities, it was appropriate to hear the matters together absent some allegation that the students had worked in concert. By way of analogy, the Panel noted that if two individuals were alleged to have shoplifted from the same store on the same day in the same manner although there would no doubt be overlapping evidence in the respective matters, it would be inappropriate to hear them together. Further, the matters were to be heard one after the other and therefore there was a danger that the student for the “second” hearing could arrive only after the motion had been heard and decided and the unified hearing was underway.
9. Although the University’s initial position was that they did not need to prove corroboration between the students to support findings of guilt, they ultimately advised that their position was that the students had colluded.

#### **FINDINGS OF THE PANEL**

10. Considering all of the above factors, the Panel ruled that it was appropriate to hear these matters together. This finding was based on the following:
11. As noted above, the Panel understood that it was the University’s position that the students had, in fact, collaborated.
12. As it related to course MAT133, the evidence for the two hearings would be virtually identical.
13. The Panel accepted that hearing the matters back to back could result in prejudice to the student in the second hearing. In this way, hearing the matters together was in the student’s best interest.
14. In addition to the above, the Panel advised the University that although the matters would be heard together, in the event that one or both of the students appeared at any point this issue would have to be revisited and, in all likelihood, the hearing(s) would have to be scrapped and restarted.
15. As it turned out, neither student appeared at any time.

#### **SECOND PRELIMINARY ISSUE: Proceeding in the Absence of the Students**

16. The absence of the students gave rise to this second preliminary issue.

17. The Students were neither present nor represented. The University filed evidence that the Students were served with the charges by email at the email addresses provided by the Students to the University of Toronto in ROSI. Specifically, B.L. was served on October 4, 2022, in relation to the charges regarding course ECO2201Y1. Both B.L. and X.Y. were served on October 26, 2023 in relation to their respective charges related to course MAT133Y1.
18. Further, the University filed evidence that on February 21, 2023, both students were served with the Notice of Electronic Hearing, again via the email address provided in ROSI. On March 13, 2023, and March 31, 2023, both students were served Revised Notices of Hearings that updated the faculty and student member who would be on the Panel.
19. Given the above, the Panel found that the Students were provided with reasonable notice and proper service as contemplated by rules 17 and 21 of the University Tribunal's *Rules of Practice and Procedure* (the "Rules"). As such, the hearing proceeded in the absence of the students.

### **III. SUMMARY OF FACTS/PARTICULARS**

20. We will deal first with the allegations arising out of the MAT133 course that concern both students.
21. The Panel received affidavit evidence from Assistant Professor Cindy Blois.
22. At all material times both B.L. and X.Y. were enrolled in MAT133. The allegations against the students related to the final assessment, which was worth 10% of their final grade in the course. On April 13, 2021, information and a study guide in relation to the final assessment was posted to the course website. The guide stated that students were not allowed to use any resources other than the course resources, calculators, notes, textbooks or online learning videos. The guide also stated that students were not allowed to communicate with one another, get outside help or, importantly, use Chegg.
23. The final assessment was administered online for a 24-hour period starting at 9:00 a.m., on April 22, 2021. During that period Professor Blois discovered that an answer to question 4 from the assessment had been posted to Chegg.
24. Both B.L. and X.Y. submitted their final assignments in the morning of April 23, 2021. An examination of their final assignments revealed numerous similarities between their answers and the answer posted to Chegg. Importantly, these similarities included notations that had never been taught in the course and identical mistakes – some of which led to the same nonsensical answers.

25. The similarities between the answers of the students and the answer found on Chegg were outlined in a chart and following explanations on pages 7-10 of Professor Blois' affidavit. Of the many telling similarities the following are perhaps the most striking:
26. Both students and Chegg made use of notations in which the variables  $x$  and  $y$  appear to have "hats". This form of notation was never taught by Professor Blois or any other instructor in the course.
27. In answering the questions, the answers found on Chegg switched from using decimals to whole numbers seemingly at random from one question to the next. Both B.L. and X.Y. made the same change at the same spot.
28. In answering question 4(b)(iii), the answer on Chegg and both students made an error by switching the  $x$  and  $y$  variable. All three answers made the exact same mistake in exactly the same way.
29. In question 4(c), X.Y., B.L. and Chegg all referenced the, untrue, idea that the "slope increases at the highest rate". B.L. appears to have altered this wording slightly but by doing so he produced a nonsensical sentence.
30. In addition to the above, Professor Blois outlined further similarities between B.L. and X.Y.'s answers. These similarities are outlined in pages 13-21 of her affidavit. Broadly speaking, there were multiple striking similarities between various answers in circumstances where students had multiple ways to solve problems and express their answers.

#### **IV. ARGUMENT OF THE UNIVERSITY**

31. The similarities in answers, the University argues, proves that X.Y. and B.L. used the answer found on Chegg to come to their answers. Further, the University argues, the similarities in the answers of X.Y. and B.L. tend to show that they collaborated on their answers.

#### **FINDINGS OF THE PANEL**

32. The Panel agrees that similarities between the answers of the students and those found on Chegg show, on a balance of probabilities, that the students copied the answers found on Chegg.
33. There is no evidence that either student posted the questions to Chegg. Indeed, apparently there were 20 some students whose answers were similar to those found on Chegg and so it is unknown who posted the questions. What is clear is that B.L. and X.Y. used the answers found there.

34. While there is compelling evidence that B.L. and X.Y. collaborated with one another in coming to their answers there is no need to decide that specific issue given the above finding.
35. Given the above, the Panel finds each student guilty of one count of using unauthorized assistance, contrary to B.I.1(b) of the Code in relation to the final assessment in MAT133.
36. We turn now to the charges arising out of the ECO2201Y1. The following discussion of offences related to the course ECO2201Y1 only concerns B.L. and has no relation whatsoever to X.Y.
37. The Panel received affidavit evidence from Professor Jennifer Murdock. The following is outlined in that affidavit.
38. In the Fall 2020 and Winter 2021 B.L. enrolled in ECO2201Y1.
39. Students in this course were required to write four term tests. Each test contained six open-ended questions. These questions could be answered in a number of ways but required a combination of writing, graphing and/or quantitative analysis. Eight different versions of the tests were created to deter cheating. The differences were minor, and students were given the various versions at random.
40. The syllabus made it clear that students were prohibited from collaborating on term tests.
41. Term test #2 was administered online on December 4, 2020. Term test #3 was administered on February 26, 2021.
42. On March 3, 2021, a teaching assistant raised concerns that students had been collaborating on their term tests given the highly similar answers given by various students. With regard to B.L. specifically, his answers on terms test #2 had profound similarities to answers given by another student (Y.D.). Further, his answers on terms test #3 had profound similarities to the answers given by another student (B.C.).
43. The similarities in the answers on the term tests are laid out in pages 4-14 of the Professor's affidavit. Although the students with whom his answers shared similarities differed, the similarities found in his term test answers as compared to other students were the same. Large portions of the answers are word for word the same as another student with the only differences being the values that changed due to the different versions of the tests handed out. Other minor differences, such as an instance of "did not" being replaced by "didn't" make no difference to the substance of the answers.

## **V. ARGUMENT OF THE UNIVERSITY**

44. The similarities in answers to the term tests, the University argues, shows that B.L. collaborated on the term tests – collaborating first with Y.D. on term test 2 and then with B.C. on term test 3. Some similarities are several paragraphs of virtually word for word answers. In other places, where the similarities are not word for word the structure and syntax of the answers are strikingly similar.

## **FINDINGS OF THE PANEL**

45. The Panel agrees that similarities between the answers of B.L. and the other students on term test 2 and 3 defies coincidence and demonstrates that B.L. collaborated with other students in producing his answers on term test 2 and 3.
46. Given the above, the Panel finds B.L. guilty of two additional counts of using unauthorized assistance, contrary to B.I.1(b) of the Code in relation to term tests 2 and 3 in ECO2201Y1.

## **VI. SANCTIONS**

47. In relation to B.L. the University submitted that an appropriate sanction was a mark of zero in both courses, a four-year suspension and a five-year notation of the sanctions. In relation to X.Y. the University submitted that an appropriate sanction was a mark of zero in the course, a three-year suspension and a four-year notation of the sanctions. The University provided thorough and helpful authorities of similar cases to justify the requested sanctions and asked the Panel to consider the nature of the offence as well as the character of the students.
48. Some of the factors in determining the appropriate sanction to apply to both students in this matter, for example, the nature of the offence is the same for both students. Using unauthorized aids in the completion of tests and assessments is a serious offence that strikes at the very core of the academic process, especially as more and more evaluations are conducted online.
49. Further, the offences related to MAT133 had some commercial aspect insofar as the answers provided by the students clearly drew on answers posted to Chegg – a subscription-based, commercial website. Although there is no evidence that either of the students in the present case were themselves subscribers to Chegg, reliance on that website encourages its existence and is a minor aggravating factor.



50. It must also be noted that neither student attended the hearing. Although this is not an aggravating factor, the students' non-attendance leaves the Panel without any evidence of remorse or mitigating factors that may reduce the appropriate sanction.
51. The final factor, which differs as between the students, is the number of offences and the presence of prior findings of guilt.
52. B.L. has been found guilty of three counts that span two courses. Two of the offences in relation to the same course took place over two sequential tests. Further, B.L. has previously been found guilty of using an unauthorized aid in the 2019-2020 academic year. B.L. admitted this offence and was sanctioned and then went on to commit the present offences. This is strong evidence of a real risk of future re-offence.
53. X.Y. has no "true" prior findings of guilt. Although X.Y. was found guilty of an academic offence on October 5, 2021, for an offence that they were charged with in January 2021, this finding of guilt post dates the offence committed in the present case. As such, it ought not be used as an aggravating factor. However, there is evidence that X.Y. was warned and on notice in relation to their conduct in relation to the prior offence when the current offence was committed. The fact that X.Y. was aware their conduct was under review at the time they committed this offence is some evidence that supports a finding that there is a risk of reoffence.
54. Given the nature of the offence, the history of the students and the absence of any mitigating factors we find that the sanctions proposed by the University are appropriate.

## **VII. ORDER OF THE PANEL**

55. At the conclusion of the hearing, the Panel conferred and made the following orders:
56. In relation to B.L.:
  1. THAT the hearing may proceed in the absence of the Student;
  2. THAT the Student is guilty of three counts of unauthorized assistance, contrary to B.I.1(b) of the Code;
  3. THAT the following sanctions shall be imposed on the Student:
    - (a) a final grade of zero in ECO220 in Fall 2020 and Winter 2021;
    - (b) a final grade of zero in MAT133 in Fall 2020 and Winter 2021;

- (c) a suspension from the University for a period of 4 years from the date of this order;  
and
  - (d) a notation of the sanction on the student's academic record and transcript for a period of 5 years from the date of this order; and
4. 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.

In relation to X.Y.:

- 1. THAT the hearing may proceed in the absence of the Student
- 2. THAT the Student is guilty of one count of unauthorized assistance, contrary to B.I.1(b) of the Code;
- 3. THAT the following sanctions shall be imposed on the Student:
  - (a) a final grade of zero in MAT133 in Fall 2020 and Winter 2021;
  - (b) a suspension from the University for a period of 3 years from September 1, 2021 to August 31, 2024; and
  - (c) a notation of the sanction on the student's academic record and transcript for a period of 4 years from September 1, 2021 to August 31, 2025; and
- 4. THAT 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 on this 3<sup>rd</sup> day of November 2023

Original signed by: \_\_\_\_\_

Dean Embry, Chair  
On behalf of the Panel