

**UNIVERSITY OF TORONTO
GOVERNING COUNCIL**

Report number 302 of the Academic Appeals Committee
July 26, 2005

Your Committee reports that it held a hearing on Tuesday July 5th, 2005, at which the following were present:

Assistant Dean Bonnie Goldberg, Chair
Professor Clare Beghtol
Ms Coralie D'Souza
Professor Michael Marrus
Professor John Wedge

Mr. Tony Gray, Judicial Affairs Officer

In Attendance:

Ms V. R., the Appellant
Associate Dean Nick Cheng, University of Toronto at Scarborough

The Appeal

The student is appealing a decision of the University of Toronto at Scarborough Sub-committee on Academic Appeals, dated June 4, 2004 denying her permission to withdraw late without academic penalty from the 2004 Winter Session course ENGB07H3 (which she failed). In its decision, the Sub-committee did grant the student permission to rewrite the final examination for the course. The student rewrote the examination in the August 2004 examination period, but continued the appeal to your Committee, seeking the original remedy of late withdrawal without academic penalty.

Facts

The student enrolled at UTSC in the 2003 summer session as a non-degree visiting student from York University. She transferred to UTSC in the 2003 fall session and is now completing her Honours Bachelor of Arts degree with a specialist program in the Education of Teachers in French.

On December 18, 2003, the student was seriously injured in a car accident. She was taken to the hospital with a severe concussion, broken front tooth, fractured left hand, deviated nasal septum, and physical impairments involving her neck, back, shoulder, pelvis, left knee, and left ankle.

On December 19, 2003, for unrelated reasons, the student submitted three petitions for 3 fall session courses: one for late withdrawal from ENGB04H3; and two for deferred examinations in FREB11H3 and ENGB35H3. The petition for late withdrawal was granted due a misunderstanding relating to the student's transfer credits from York. The

petitions for deferred examinations were granted due to illness and the student wrote those examinations in the April 2004 exam period.

On December 23rd, the student began attending physiotherapy three times a week. As was her practice in previous terms, the student enrolled in 4 courses for the 2004 winter session. On January 2nd, her tooth was repaired. She resumed most of her regular activities around this time, but stopped volunteering, and reduced her hours at a daycare. On February 27th, the student saw an ENT specialist due to nose bleeds and breathing problems.

Through March and April, the student's health deteriorated. She began to experience pain in her joints, severe headaches, and nosebleeds toward the end of each day. The course of ENGB07H3 was both at the end of her day and at the end of her academic week. As a result, it became difficult for the student to attend class, and to participate in a class that was discussion-oriented. At about this time, the student added an additional weekly physiotherapy session, and began acupuncture and massage to deal with increasing pain. About one week after the drop date in early March 2004, the student stopped attending ENGB07H3. However, the student submitted all of her mini-assignments prior to the time she stopped attending class. Thus, by the spring of 2004, the student was experiencing worsening medical problems, additional treatments and doctor's appointments, and no longer attending this class.

On April 8th, the student visited a neurologist due to memory difficulty, poor concentration, headaches, and sleep disruption. The doctor advised the student to lessen her workload and to concentrate on regaining her health.

On April 8, 2004, the student submitted a petition requesting late withdrawal without academic penalty from ENGB07H3.

Previous Decisions

The student's petition was denied on April 12th, 2004 on the grounds that she was being "selective" in her petition given her intention to complete her other 3 courses and because she should have better assessed her situation on the drop-date (March 7th, 2004).

On May 3rd, the student appealed her decision to the UTSC Sub-committee on Academic Appeals. Her request for late withdrawal was denied, but she was granted permission to rewrite the course's final examination in the next examination period. The Sub-committee observed that students are rarely allowed late withdrawals from one course while remaining in the other courses. The Sub-committee accepted and sympathized with the student's medical difficulties, but found that the student exercised "poor judgement" in maintaining a heavy academic load in the face of these problems. The Sub-committee found that the student "would be better served by being allowed another attempt to complete the course" but chose to grant her relief in the form of directing her to attempt the final examination again.

Decision

Your Committee is unanimously of the view that the student's appeal should be allowed.

The ability to obtain late withdrawal without academic penalty is an extraordinary remedy, reserved for unusual and unique of situations. The existence of "drop dates" indicates that the University takes seriously the ability of a student to choose whether to continue in a course for any number of reasons. But by the drop date each term, the student is expected to have assessed his or her situation and made a decision. Once the drop date passes, the University takes the position that the student has decided, no matter what situation may have existed before the drop date or may arise after the drop date, to continue on in the course. Exceptions to this policy are rare, but one could conceive that they would only entail situations where unanticipated circumstances occur after the drop date, where already-existing circumstances become significantly more severe, or where already-existing circumstances do not resolve as expected.

Applying this analysis to the present case, your panel accepts the student's contention that her already-existing circumstances became significantly more severe and were not anticipated or easily accommodated. Through her academic pursuits, extra-curricular activities, and in the labour market, the student has proven herself to be hard-working and dedicated. She was determined to progress academically despite the catastrophic setback of the car accident. This course in particular, of all the student's courses, was based on participation, and occurred at the end of the day and was her last course in the week. The student stopped attending classes in mid-March, and even prior to that had found she could not sit through the entire class.

We are respectful of the fact that late withdrawal without academic penalty is rarely granted at UTSC once the student has completed the course. However, implicit in the Sub-committee's decision is that the student was too ill to complete the course as proscribed and that the student was entitled to relief from her failing grade. The student re-wrote the examination in response to the Sub-committee, but knew that it was futile and continued her appeal. It is our opinion that student would not have been able to – nor should she have been expected to – attempt a rewrite of a course that she could not complete. UTSC treated this student fairly in other accommodations, and we believe that its intentions in offering the re-write were believed to be genuinely in the student's favour. However, the offer to re-write the examination is an unreasonable remedy in light of the student's inability to participate in the course from mid-March until the end of term.

The student also asked the Committee that if we found in her favour, she could be refunded the money she spent on the course. The Committee believes that it does not have the jurisdiction in this matter and that it is a matter of policy to be decided by individual divisions. However, we wish to state for the record that in our opinion, students are not entitled to refunds of courses for which they are granted late withdrawal without academic penalty. In this case in particular, the student attended three quarters of the term, the instructor marked all 11 mini-assignments, marked her mid-term and her two attempts at the final examination. The student is entitled to relief on an academic

basis from a failure on her transcript for a course she could not successfully complete, but she is not entitled to monetary relief.

In sum, we find that the student could not reasonably have anticipated and overcome her mental and physical difficulties in March and April 2004, such as to succeed in all 4 of her courses. Further, based on the medical opinions given at the time of the accident and the inherent uncertainty in diagnosing the effects of the accident, it was not possible for the student to foresee her worsening medical conditions prior to the drop date. For these reasons, we allow the appeal and grant the student late withdrawal without academic penalty from ENGB07H3. This decision is not meant as precedent for students asking for late withdrawal without academic penalty; nor is it meant to be a negative reflection of UTSC, which tried to accommodate this student. Rather, this decision is an acknowledgment of the unique and serious nature of the appellant's circumstances during March and April 2004, necessitating a unique and serious remedy.

The appeal is allowed.

Anthony Gray
Secretary

Bonnie Goldberg
Chair