

THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO

IN THE MATTER OF charges of academic dishonesty made on May 28, 2019,

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.

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

K [REDACTED] D [REDACTED] (the “Student”)

REASONS FOR DECISION

Hearing Date: August 27, 2019

Members of the Panel:

Mr. R.S.M. Woods, Barrister and Solicitor, Chair

Dr. Ian Crandall, Faculty Panel Member

Madison Bruno, Student Panel Member

Appearances:

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

Hearing Secretary:

Ms. Krista Osbourne, Administrative Clerk and Hearing Secretary, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

The Student

The Charges

1. On April 30, 2019, the University of Toronto (the “**University**”) laid charges (the “**Charges**”) against K■■■■ D■■■ (the “**Student**”) under the *Code of Behaviour on Academic Matters, 1995* (the “**Code**”). Those charges were amended on May 28, 2019. The charges as amended (the “**Amended Charges**”) charged the Student with the following academic offences”

1. You knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely, a document which purported to be a degree certificate from the University of Toronto dated June 19, 2017, contrary to section B.I.3(a) of the Code.

2. You knowingly forged or in any other way altered or falsified an academic record, and/or uttered, circulated or made use of such forged, altered or falsified record, namely, a document which purported to be a transcript of consolidated academic record from the University of Toronto dated June 19, 2017, contrary to section B.I.3(a) of the Code.

The Hearing

2. The Tribunal heard the Amended Charges on August 27, 2019. The University was in attendance, but even after waiting 15 minutes the Student failed to appear.

Ability to Proceed in the Student’s Absence

3. As a result of the Student’s failure to attend the hearing, we started the hearing by considering whether or not we could proceed in the Student’s absence.

4. Mr. Centa on behalf of the University submitted that the *University Tribunal Rules of Practice and Procedure* (the “**Rules**”) entitled the Tribunal to proceed since the Student had been provided with adequate notice of the hearing. In support of that position he provided the Tribunal with the affidavit of Krista Osbourne sworn August 9, 2019, the affidavit of Justine Cox sworn June 21, 2019 and the affidavit of Sharon Hawley sworn August 20, 2019.

5. Ms. Hawley is Mr. Centa's assistant. Her affidavit included a letter dated April 30, 2019 from Melissa Clark, a staff member in the office of Appeals, Discipline and Faculty Grievances, to the Student which provided the Student with a copy of the Charges. Ms. Hawley's evidence was that she had been copied on the email sending the letter to the Student's email address at the University. Ms. Hawley also stated that she had sent an email to the Student on behalf of Mr. Centa on May 16, 2019. The email was sent to the same email address as Ms. Clark's letter. The email Ms. Hawley sent on Mr. Centa's behalf provided the Student with a link to the package of documents providing the Student with disclosure about the Charge.

6. Ms. Cox's evidence was that she served the Student with the Amended Charges on May 28, 2019 by emailing them to the Student at the Student's address in the Repository of Student Information ("**ROSI**").

7. Ms. Osbourne is Administrative Clerk and Hearing Secretary in the Appeals, Discipline and Faculty Grievances section of the Office of the Governing Council of the University. In her affidavit, Ms. Osbourne provided evidence of the documents she had sent to the Student.

8. Ms. Osbourne indicated that on July 8, 2019 she had emailed the Student a copy of the Notice of Hearing advising the Student that the Amended Charges would be heard by the Tribunal on August 27, 2019 as well as the location at which the hearing would take place. Ms. Osbourne stated that she sent the email to the email address for the Student in ROSI. Ms. Osbourne stated that she had not received a "bounce back" message from the Student's email address. Ms. Osbourne also couriered a hard copy of the Notice of Hearing to the Student's mailing address in ROSI. She received a confirmation from the courier company she had used indicating that the package had been delivered and signed for by someone at the Student's mailing address.

9. Ms. Osbourne further indicated that she had provided a Revised Notice of Hearing to the Student's email address in ROSI on July 23, 2019. Ms. Osbourne indicated that she did not receive a "bounce back" message. The Revised Notice of Hearing was required after the student member of the Tribunal named in the original Notice of Hearing was unable to attend and replaced by Ms. Bruno. The date and place of the hearing remained unchanged.

10. Ms. Osbourne also couriered a copy of the Revised Notice of Hearing to the Student's mailing address in ROSI on July 24, 2019. This time the concierge refused to take delivery of the package.

11. Based on the evidence provided to us by the University we were satisfied that the Student had received adequate notice of the hearing and that pursuant to Rules 9(b), 13, 14 and 17 of the *Rules* we had the ability to proceed with the hearing in the Student's absence. We therefore proceeded to hear and consider the University's evidence.

Evidence and Submissions on the Merits

12. In support of its allegations against the Student, the University tendered an affidavit from Sana Kavar, Manager of the University's Transcript Centre in the Faculty of Arts and Science. The Transcript Centre issues transcripts to students. It often receives requests from other academic institutions seeking to verify a student's academic record, particularly if the student provided a transcript to the institution directly.

13. On June 25, 2018, Jiajia Chen, an Admissions Officer at the University of New South Wales China Office ("UNSW") emailed the Transcript Centre to inquire about the authenticity of 17 transcripts submitted as part of applications for admission to UNSW. Ms. Chen asked the Transcripts Centre to confirm the authenticity of the transcripts which had been selected as part of a random quality control and auditing process.

14. Rachelle Allen, a Transcript Courier Liaison at the Transcript Centre reviewed the transcripts provided by Ms. Chen. Ms. Allen concluded that all of the transcripts were accurate, with the exception of a transcript submitted by the Student.

15. On July 3, 2018, Ms. Chen sent Ms. Kavar a copy of the purported transcript as well as a degree certificate submitted to her office by the Student. Ms. Kavar reviewed the transcript and the degree certificate, following which she accessed the Student's academic record in ROSI. Based on that comparison Ms. Kavar advised Ms. Chen that the purported transcript submitted by the Student was not issued by the University and did not accurately represent the Student's academic history. Ms. Kavar further advised Ms. Chen that the purported degree certificate was not authentic, and that the University had never issued a degree to the Student.

16. Based on the foregoing evidence, counsel for the University submitted that the University had made out the Charges.

Decision on the Merits

17. The University has the burden of establishing on the balance of probabilities using clear and convincing evidence that the Student committed the academic offence with which he or she has been charged. In this case, that requires the University to establish that the Student knowingly forged or in any other way altered or falsified any academic record, or uttered, circulated or made use of any such forged, altered or falsified record, whether the record was in print or electronic form

18. Based on the evidence before us, we are satisfied that the University has discharged its burden. The evidence establishes that the Student submitted a forged transcript and degree certificate to the UNSW as part of the Student's application for admission to that institution.

19. While we have no direct evidence that the Student personally forged the transcript and the degree certificate, in the absence of any evidence to the contrary, we are prepared to draw the inference from the evidence before us that the Student had knowingly forged both the transcript and the degree certificate. We therefore found the Student guilty of the Charges.

Evidence and Submissions on Penalty

20. The University did not lead any new evidence on the issue of penalty. Its Counsel submitted that we suspend the Student for a period of five years and recommend to the President of the University that he recommend to the Governing Council that the Student be expelled.

21. In its previous decisions, this Tribunal has noted the seriousness of a charge that a student forged a degree certificate. For example, in *S.K.* [Case No. 492, July 31, 2008] the Tribunal stated that forgery is "probably the most serious offence" and "an offence of the utmost seriousness". Similar statements can be found in other cases dealing with forged degree certificates. The Tribunal has made similar statements in cases involving forged academic records and unofficial transcripts (See *C.A.* [Case No. 828, April 11, 2016]).

22. Recent cases confirming the seriousness of the offence of forging academic records include *S. L. J.* [Case No. 970, December 17, 2018], and *Z.Q.* [Case No. 989, May 1, 2019]. As set out in those and other cases, the usual penalty in forged degree certificate cases is a lengthy suspension and a recommendation that the President recommend expulsion, even in cases where the student has no prior record of academic misconduct.

Decision on Penalty

23. Forging and circulating both a transcript and a degree certificate are extremely serious offences. As both this panel and other panels have said in other cases, forged certificates damage the University's reputation, undermine the trust prospective employers and other academic institutions have in the University and its students, and harm students who have earned their degrees by forcing them to compete for positions against students who have not earned the qualifications they claim to hold.

24. There is no evidence before the Tribunal of any factor mitigating against the imposition of a penalty consistent with the penalties imposed by the Tribunal in similar cases. The Student had the opportunity to attend the hearing and explain what had happened, including any evidence of mitigating circumstances, but chose not to do so. In the absence of any such mitigating circumstances the general principles set out in the cases set out above must guide us.

25. Taking into account the seriousness of the offence and the lack of anything that might lead us to conclude that the student deserved less than the penalty given other students for similar offences, we have decided to suspend the Student from the University immediately for a period of five years and to recommend to the President that he recommend that the Governing Council expel the Student.

26. We further order that this case be reported to the Provost for publication of a notice of this decision and the sanctions imposed, with the name of the Student withheld.

Dated: November 26, 2019



Mr. Seumas Woods, Chair