

**UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER of charges of academic dishonesty made on May 11, 2012

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 (the "University")

- and -

A [REDACTED] N [REDACTED] (the "Student")

Hearing Date: April 19, 2013

Panel Members:

Ms. Roslyn M. Tsao, Chair
Professor Kathi Wilson, Faculty Panel Member
Mr. Michael Dick, Student Panel Member

Appearances:

Mr. Robert Centa, Assistant Discipline Counsel for University, Paliare Roland Barristers
Dr. Effiette Sauer, Instructor for CHMA10H3: Introduction to Chemistry I
Ms. Diane Kruger, Forensic Document Examiner, Forensic Examiners
Professor Eleanor Irwin, Dean's Designate, University of Toronto Scarborough

In Attendance:

Ms. Natalie Ramtahal, Coordinator, Appeals, Discipline and Faculty Grievances

Reasons for Decision

Delivered by Ms. Roslyn M. Tsao

1. The Trial division of the Tribunal heard this matter on April 19, 2013. The Student was charged on May 11, 2012 with the following:
 - (a) On or about March 9, 2011, you knowingly had someone personate you at a term test in CHMA10H3 (the "Term Test") and (the "Course"), contrary to section B.I.1(c) of the Code.
 - (b) In the alternative, on or about March 9, 2011, 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 mid-term test in the Course, contrary to section B.I.3(b) of the Code.
 - (c) On or about April 20, 2011, you knowingly had someone personate you at a final exam in CHMA10H3 (the "Final Exam"), contrary to section B.I.1(c) of the Code.
 - (d) In the alternative, on or about April 20, 2011, 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 exam in the Course, contrary to section B.I.3(b) of the Code.

Absence of Student from Hearing

2. The Student did not attend at the Hearing.
3. This matter was originally scheduled for a hearing on January 16, 2013. Proper notice of that hearing date and disclosure was provided to the Student in accordance with The University Tribunal Rules of Practice and Procedure (the "Rules").

4. On January 16, 2013, the Student had not appeared at the hearing approximately an hour after the scheduled commencement time. However, the Student panel member of the Tribunal was unable to attend that hearing due to illness. As a result, the hearing on this matter was rescheduled for April 19, 2013.
5. Again, the University proceeded to properly serve notice of the new Hearing date pursuant to the Rules. In particular, the Panel notes that the Student sent an email to the Office of the Governing Council on May 17, 2012, confirming her email address and her mailing address. The University used this contact information to serve the Student with the requisite notice of the Hearing.
6. The Tribunal is satisfied that the Notice of Hearing (containing the standard warning if the student does not attend) dated February 11, 2013 for the hearing of April 19, 2013, Charges and disclosure were served by courier and e-mail to the Student in accordance with the Rules.
7. Accordingly, the Hearing proceeded in the absence of the Student.

Facts of the Case

8. The University tendered three witnesses: Dr. Effie Sauer, Professor Eleanor Irwin and Ms. Diane Kruger. An Affidavit of the Lab Coordinator, Lin Teo, was also tendered.
9. Dr. Sauer was the instructor of the Course in the Winter term of 2011. Dr. Sauer has been teaching for 5 years and taught 2 courses during that Winter 2011 term.
10. The Syllabus for the course set out the method of evaluation for the Course:
 - (a) Online homework/tutorials;
 - (b) Compulsory Lab component (5 labs), including lab manual and notebook preparation;
 - (c) Early Assessment Test;
 - (d) Mid-Term Test; and

- (e) Final Examination.
11. The Student's scores in the course components were:
- (a) Homework/Tutorials: 0%
 - (b) Early Assessment Test: 24%
 - (c) Midterm Test: 87.5%
 - (d) Final Examination: 93.0%
 - (e) Lab work: 35.6%
12. The Student failed to attend the last two labs of the course and had scores in only 2 of the 5 Lab Quizzes. **As such, the Student failed the course as the lab component is compulsory.**
13. In this case, as often occurs, the discovery of the alleged academic misconduct arose in an indirect manner.
14. Dr. Sauer testified that she recalls that there were between 80-100 students in the Course. There were 3 one-hour lectures per week and 1 lab with Ms Teo every other week for 3 hours. There was also 1 tutorial session every other week.
15. Dr. Sauer invigilated each of the Early Assessment Test, Mid-Term Test and Final Examination, with the assistance of Teaching Assistants ("TA").
16. Dr. Sauer testified that there were only two occasions during the course that she noticed any student wearing a niqab¹. The first occasion was during the Mid-Term Test and the second occasion was during the Final Examination.

¹ Dr. Sauer expressly identified the headgear to which she was referring as a "niqab" (head covering with a face veil, leaving only the eyes visible) as distinguished from a "hijab", "chador" or "burka".

17. It is noted that the students are identified during the tests by showing their UT Identification card for appearance comparison and their signature comparison. With a niqab, it is obviously somewhat more difficult to compare the student's appearance to her photo identification.
18. During the Early Assessment Test (which was the first evaluative test in the course), Dr. Sauer did not see any student wearing a niqab. The Student's score on this test was 24%.
19. During the Mid-Term Test (which was the second evaluative test in the course), Dr. Sauer noticed only one student wearing a niqab but did not know the student's identity. There was an answer booklet and scantron submitted under the Student's name for this test. The Student's score was 87.5%.
20. Dr. Sauer noted the Student's significant improvement between her first and second tests and emailed the Student to congratulate her on her improvement. Dr. Sauer had not "met" with the Student to this point and would not have known which student she was.
21. During the Final Examination (the third and last evaluative test), Dr. Sauer again noticed only one student wearing a niqab. This student was noteworthy, however, as she finished the 3 hour examination in about half the allotted time. After this student handed in her exam booklet, etc., Dr. Sauer quickly retrieved and reviewed the booklet and noted that it and the Candidate Form was under the name of the Student. Dr. Sauer also determined that the exam would receive a very good grade. Ultimately, the grade for this Final Examination was 93%.
22. It was in these circumstances, that Dr. Sauer correlated the Student with the person wearing the niqab during the Final Examination.
23. Later in the day of the Final Examination, the Student emailed Dr. Sauer to indicate that there seemed to be an error with one of the questions of the examination. Dr. Sauer confirmed that there had been an error with the multiple choices and that she would be accepting either of two answers.

24. In due course, the final grades were released and the Student received a "Fail" in the Course because of the incomplete lab component, despite her grades in the 3 evaluative tests.
25. Soon after, in about May, 2011, the Student contacted Dr. Sauer to express her disappointment at failing the course because she had missed 2 labs and wanted to speak to Dr. Sauer to see if anything could be done. The Student arranged to meet with Dr. Sauer.
26. When the Student attended the meeting, Dr. Sauer was expecting to meet with a student wearing a niqab given the association with the student who had handed in the Final Examination (after only half of the allotted time). However, the Student was in everyday clothes.
27. As a result of the meeting with the Student, Dr. Sauer sought confirmation from the lab coordinator, Lin Teo, and her TAs as to whether they recalled seeing any student in the Course wearing religious headgear.
28. Ms. Teo confirmed at that time and by affidavit for the Hearing that she did not recall any student wearing any headgear/face veil for the labs. Dr. Sauer was likewise advised by the TAs that they did not recall any student wearing same.
29. Dr. Sauer also asked for the Student's in-class Lab Book, Lab notes and Quizzes. Dr. Sauer formed the view that the handwriting between the work known to have been that of the Student (her Early Assessment Test (which was signed by the Student), the lab notes and quiz) and work that could have been or was submitted by a student who wore a niqab during the tests (Mid-Term Test and the Final Examination (which was expressly identified by Dr. Sauer as having been submitted under the Student's name)) were different.
30. Dr. Sauer was concerned that there had been academic misconduct, namely, that the Student had another person write her Mid-Term Test and the Final Examination. Dr. Sauer referred the matter to the Dean's Designate after meeting with the Student again.

31. The Dean's Designate, Professor Irwin, met with the Student on November 9, 2011. The notes taken during that meeting indicated that the Student had advised that she wore the hijab² at home and that she did not have time to change her clothes before the Final Examination.
32. The Student indicated that she had government identification which showed her wearing the hijab. Professor Irwin recommended to the Student to obtain legal advice and that if she was going to defend against charges and that she should put together whatever material she had.
33. It is noted that the Student did not ever provide any government identification which showed her wearing a head covering.

Expert Evidence

34. The University qualified Ms. Diane Kruger, a Forensic Document Examiner, as an expert in the scope of "examination and comparison of handwriting, printing and signatures".
35. Ms. Kruger tendered a written expert report dated May 9, 2012 to supplement her oral testimony.
36. Ms. Kruger's expert opinions, without reservation, after comparison of the various documents known to have been written by the Student and those documents in question were:
 - (a) That the documents which the Student was known to have written, being the Early Assessment Test, Experiment #1 report, Lab Safety Quiz #5 and the 6 pages and cover of her Lab notebook, were written by the same person;
 - (b) That the Mid-Term Test and Final Examination were written by the same person;

² The reference to the headgear at the Dean's Designate meeting was to a "hijab" which is a head covering without a face veil.

- (c) That the person who had written the documents in (a) above was not the same person who had written the documents in (b) above;
 - (d) That the signature on the Candidate Form for the Final Examination was an "attempt to simulate the signature" of the Student, whose signature was identified on the Early Assessment Test.
37. The Panel had no difficulty agreeing with Ms. Kruger's conclusions given the plain differences between the numbers "9" and "8" by the two writers and the rather poor attempt to simulate the Student's signature.
38. Ms. Kruger's analysis illustrated more subtle yet compelling differences in the character strokes between the two sets of writing.

Decision of the Tribunal

39. The Tribunal is satisfied that the University has discharged its burden of proving the commission of the offences as charged in Charges 1 and 3.
40. We find that the Student knowingly engaged someone to personate her at the Mid-Term Test and Final Examination of the Course contrary to section B.I.1(c) of the Code.
41. The University withdraws Charges 2 and 4.

Penalty

42. The University requested the following penalty which the Tribunal so orders:
- (a) The Student shall receive a final grade of zero in the course CHMA10H3; and
 - (b) The Student shall be suspended from the University for a period not to exceed 5 years from the date of this order; and
 - (c) The Tribunal recommends to the President of the University that he recommend to the Governing Council that the Student be expelled from the University.

43. The Panel was referred to the Appendix "C" of the Code, "Provost's Guidelines on Sanctions, Offences and Suggested Penalties for Students" which suggests expulsion as the recommended sanction for personation offences.
44. We are not bound by the Provost's Guidelines and must consider each case on its own facts.
45. In this case, there are two instances of personation, the Student has a poor academic record and there is no evidence of any mitigating factors. The integrity of the academic evaluation process for students at the University is a paramount concern. Engaging someone to impersonate oneself for academic advantage or otherwise is a serious and, in this case, premeditated, breach of this integrity.
46. As such, the circumstances in this case warrant the recommendation of expulsion.
47. This case shall be reported to the Provost, with the Student's name withheld, for publication of a notice of the decision of the Tribunal and the sanction imposed.
48. An Order with the penalty was signed by the Panel at the hearing.

Dated at Toronto, this 9th day of MAY, 2013.



ROSLYN M. TSAO
Co-Chair