

**UNIVERSITY OF TORONTO  
UNIVERSITY TRIBUNAL  
TRIAL DIVISION**

**Members of the Panel:**

**Laura Trachuk**, Co-Chair

**Justin Ancheta**, Student Panel Member

**Marie-Josée Fortin**, Faculty Panel Member

**IN THE MATTER** of the *University of Toronto Act, 1971*, S.O. 1971, c. 56, as amended;

**AND IN THE MATTER** of the *University of Toronto Code of Behaviour on Academic Matters, 1995*;

**AND IN THE MATTER** of disciplinary charges against Ms. B.

*Eric Lewis* for Ms. B.

*Lily I. Harmer* for the University

Appearances:

*Hugo de Quehen* – Faculty member, Department of English

*Devon LaBerge* – Student

*Mrs. B.* – Mother of the accused

*Ms. B.* – Accused

*Chris Ramsaroop* - Student

*Susan Lishingman* – Administrative Assistant, University College

*Endel Tulving* – Expert Witness

*Susan Bartkiw* – Faculty of Arts and Science

**BACKGROUND**

[1] The Trial Division of the University Tribunal was convened on October 1, 2003; November 11, 2003; December 3, 2003; and, April 1, 2004 to consider three charges brought under the *Code of Behaviour on Academic Matters, 1995* against Ms. B. by letter dated April 24, 2003 from the Deputy Provost and Vice-Provost, Faculty (as he then was), Professor Vivek Goel:

1. On or about August 7, 2002, you did knowingly represent as your own, an idea or expression of an idea, and/or work of another in

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connection with a form of academic work, namely, in the final test submitted for credit in the course ENG 220Y, contrary to Section B.I.1(d) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section B of the *Code* you are deemed to have acted knowingly if you ought reasonably to have known that you represented as your own, an idea or expression of an idea or work of another.

2. On or about August 7, 2002 you did use or possess an unauthorized aide or aides or obtained unauthorized assistance in an academic examination or term test or in connection with any other form of academic work, contrary to Section B.I.1.(b) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section B of the *Code* you are deemed to have acted knowingly if you ought reasonably to have known that you used or possessed an unauthorized aide or aides or obtained unauthorized assistance in an academic examination or term test or in connection with any other form of academic work.
3. In the alternative, on or about August 7, 2002, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind in a final test submitted to fulfil course requirements in ENG 220Y contrary to Section B.I.3.(b) of the *Code of Behaviour on Academic Matters, 1995*. Pursuant to Section B of the *Code* you are deemed to have committed the offence knowingly if you ought reasonably to have known that you engaged in any form of cheating, academic dishonesty or misconduct, fraud or misrepresentation in order to obtain academic credit or other academic advantage of any kind.

[2] The particulars were provided in the same letter from Professor Goel:

1. At all material times you were a student in ENG 220Y taught by Professor H. de Quehen in the summer of 2002.
2. Portions of your final test submitted on August 7, 2002 were not written by you.
3. During the final test of ENG 220Y you used or possessed an unauthorized aide or aides or obtained unauthorized assistance in answering Question 1 and Question 3 of the final test.

[3] Ms. B. pled not guilty to all three charges. On the evenings of October 1, November 11, and December 3, Mr. Lewis represented Ms. B. At the commencement of

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the hearing on April 1, Ms. B. advised the Tribunal that Mr. Lewis no longer represented her and that she was content to proceed without counsel.

[4] It was common ground that passages in Ms. B.'s examination booklet (Exhibit 4), were identical to passages found from the website printout (Exhibits 5, 6 and 7).

[5] The University's theory was that at some point during the examination, Ms. B. had left the examination hall, gained access to a computer terminal, or study notes, and copied information into her exam booklet. Professor de Quehen testified that it might have been possible for a student to leave the room unnoticed. He also testified that he did not recall seeing Ms. B. in the examination hall during the course of the examination.

[6] The student's response was that she was present for the duration of the examination and that any resemblance her answers bore to information on the Internet was an "unconscious" result of her ability to memorize the material. Devon LaBerge, a fellow student in ENG 220Y testified that she recalled Ms. B. in the examination hall before and after the examination. She further testified that she did not notice Ms. B. leave or return to the examination hall.

[7] At the December 11 hearing, the University proposed to test Ms. B.'s memory abilities during cross-examination. Mr. Lewis objected and the Tribunal ruled that it would be unfair to subject Ms. B. to a test during the course of her cross-examination. However the Tribunal was prepared to adjourn the matter *sine die* for the purposes of obtaining an expert examination of Ms. B.'s memory abilities.

[8] When the hearing resumed on April 1, the Tribunal was advised that Ms. B. had refused testing in the interlude since December 3. As a result, the University offered the opinion evidence of Professor Emeritus Endel Tulving, and the Tribunal accepted his qualifications as an expert in the field of human memory. Dr. Tulving testified that while the amount of material copied into the examination booklet in and of itself would not require an extraordinary memory ability, the fact that the student could not have known exactly what would be covered by the examination meant that she would have had to have memorized an extraordinary amount of material in order to be able to extract the exact material covered by the examination. He indicated that he had never in his experience come across a person with such ability, but he did not rule out the possibility that there could be such a person. Dr. Tulving ruled out the possibility that a student could "unconsciously" memorize study notes.

**REASONS FOR DECISION (Delivered Orally)**

[9] The Tribunal has carefully considered the evidence and the arguments presented. There's no doubt that much of the examination Ms. B. wrote on August 7, 2002 was copied word for word, comma for comma, from the Gradesaver website. We have both the examination and the website; we also have Ms. B.'s study notes which incorporate material from the website. Ms. B.'s defense to this apparent case of plagiarism is that it

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was an accident. She claims that she inadvertently memorized portions of the website from her study notes and then inadvertently reproduced the material in her answers.

[10] We simply do not believe Ms. B.'s explanation. What she claims to have done would be extraordinary. If she had that ability, there would have been some other manifestation in her life, other evidence for her to call upon. However the only other example of her remarkable memory offered is her mother's recollection of her ability to give an oral presentation she had *consciously* memorized.

[11] Ms. B. said at the April 1 hearing she was not aware of this ability until she met with Professor de Quehen. She has also backtracked from her claim that she has a "photographic" memory. That was fortunate, as Dr. Tulving has testified that there is no such thing. His evidence also supports the tribunal's finding that the accidental memorization and reproduction explanation, provided by Ms. B., could not have occurred.

[12] We are therefore left with the evidence of the website and the notes and the examination. The examination was copied from one or both of the other two. We don't know how Ms. B. accessed the website or the notes during the period of the test. We do know that she did so as there is no other explanation for how the material was reproduced. We find that the University has provided clear and convincing evidence that Ms. B. violated the *Code*. We find her guilty of the offences set out in B.I.1(b) and (d) of the *Code*.

**REASONS FOR SANCTION (Delivered Orally)**

[13] The Tribunal considered that Ms. B. has not admitted the offences and therefore has not shown any remorse for them. However we have also noted that she has no prior offences. We have also considered the seriousness of the offences of which she has been convicted and the detrimental effect on the University. In the circumstances we have decided to impose the following sanctions:

- A grade of zero in ENG 200Y;
- A period of suspension from the University for two years from the end of this term;
- A notation on your academic record and transcript for a period of two years; and,
- Reporting the decision to the Vice-President and Provost for publication with the name of the student withheld.

[14] The panel decided that the notation on the transcript should only be for the same period as the suspension because Ms. B. may potentially complete her coursework for her B.A. this term. The effect of a three-year notation might be to delay the resumption of her academic career beyond the two-year period of the suspension. We thought that would be inappropriate in the circumstances.

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I certify that this is the decision of the panel:

April 7, 2004

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Date

Laura Trachuk

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Laura Trachuk