

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on December 19, 2016,

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

- and -

Y [REDACTED] L [REDACTED]

REASONS FOR DECISION

Date of Hearing: April 28, 2017

Members of the Panel:

Ms. Amanda Heale, Chair

Professor Michael Saini, Faculty Panel Member

Ms. Amanda Nash, Student Panel Member

Appearances:

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

Ms. Emily Home, Articling Student, Paliare Roland Rosenberg Rothstein LLP

Mr. Nathan Korenberg, agent for Juslaw Legal Services, paralegal for Ms. Y [REDACTED] L [REDACTED]

In Attendance:

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

Mr. Sean Lourim, IT Support, Office of the Governing Council

Not in Attendance:

Ms. Y [REDACTED] L [REDACTED], the Student

Introduction

1. A hearing before the University Tribunal (the "Tribunal") was convened on April 28, 2017 to consider the Charges (as defined below) against the Student, Y■■■■ L■■ (the "Student").

The Charge

2. The charges against the Student (the "Charges") are as follows:
- (a) On or about December 18, 2015, you knowingly forged or in any other way altered or falsified a document or evidence required by the University of Toronto, or uttered, circulated or made use of any such forged, altered or falsified document, namely, a University of Toronto Verification of Student Illness or Injury form, dated December 15, 2015, which you submitted in support of your petition request for a deferred examination in CSC108H5F (20159), contrary to Section B.I.1(a) of the Code.
 - (b) In the alternative, 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, which violated section B.I.3(b) of the Code.

Particulars

3. The particulars of the offences charged are as follows:
- (a) At all material times you were a student at the University of Toronto Mississauga.
 - (b) On December 15, 2015, you submitted a petition request for a deferred examination in CSC108H5F (20159) on the basis of an illness, which you described as "fever and the influenza".
 - (c) In support of your request, on December 18, 2015, you submitted a University of Toronto Verification of Illness or Injury form dated December 15, 2015 (the "VOI"). The VOI was purportedly prepared and signed by "Dr. John P. Winston" with CPSO registration number 77179.
 - (d) CPSO registration number 77179 is not associated with a "Dr. John P. Winston" and the CPSO registry does not contain any doctors by that name.
 - (e) You knew that the VOI was forged or altered and contained false

information when you submitted it.

- (f) You knowingly submitted the VOI:
 - i. understanding that the University of Toronto required evidence to be presented in order to obtain the academic accommodation you sought.
 - ii. with the intention that the University of Toronto rely on it in considering whether or not to provide you with the academic accommodations you requested;
 - iii. in an attempt to obtain an academic advantage.

Agreed Statement of Facts

4. The hearing proceeded on the basis of an Agreed Statement of Facts (the “ASF”), which was marked as Exhibit 1. The parties also presented a Joint Book of Documents (the “JBD”) that is referred to in the ASF, which was marked as Exhibit 3. A summary of the agreed facts follows.

5. On December 15, 2015, The Student submitted a petition to request to defer her final exam for CSC108H5F 2015(9). The petition, which was given file number 45957, and the supporting documents submitted by The Student were included in the JBD at Tab 4 (“Petition”).

6. In support of the Petition, the Student submitted, among other documents, a Personal Statement and a University Verification of Student Illness or Injury Form, dated December 15, 2015 which was purportedly signed by Dr. John P. Winston (“December 15 Form”). The Personal Statement contained statements that she knew to be false when she submitted it.

7. The Student was not seen by Dr. Winston on December 15, 2015, or at any other time. She paid \$100 to have a false and forged medical note created for her to circulate to the University in support of her request for academic accommodation. The Student knew that the December 15 Form had been forged or altered and contained false information when she submitted the December 15 Form to the University.

8. The Student admitted that she knowingly submitted the documents described above understanding that the University of Toronto required evidence to be presented in order to obtain the academic accommodation she sought, with the intention that the University of Toronto rely on them in considering whether or not to provide her with the academic accommodations she requested, and in an attempt to obtain an academic advantage.

Findings on Charges

9. Following deliberations and based on the ASF and the JBD, the Panel concluded that the first charge (as outlined in paragraph 2 above) had been proven with clear and convincing evidence on a balance of probabilities, and accepted the guilty plea of the Student in respect of that charge. The Panel was advised that if the Tribunal convicts the Student on the first charge, the University would withdraw the alternative charge.

Penalty

10. The University and the Student submitted an Agreed Statement of Facts and Joint Submission on Penalty (the "JSP"), which was marked as Exhibit 3. In the JSP, the parties submitted that the Tribunal should impose the following sanctions on the Student:

- a) a final grade of zero in CSC108H5, 2015 (9);
- b) a suspension from the University for three years from May 1, 2017 to April 30, 2020; and
- c) a notation of the sanction on her academic record and transcript until April 30, 2021.

11. The parties also submitted that this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed in the University newspapers, with the name of the Student withheld.

12. Counsel for the University provided submissions on the high threshold required for a Tribunal to deviate from a joint submission on penalty. As set out in the Discipline

Appeals Board decision in *S.F. and The University of Toronto* (Case No. 690 – Appeal, dated October 20, 2014), only truly unreasonable or “unconscionable” joint submissions should be rejected (para 22).

13. In the Panel’s view, the joint submission in this case is reasonable. In particular, the Panel took into consideration the seriousness of the offence; the Student in this case not only submitted a forged or falsified record to the University, but paid to do so. Offences of this nature compromise the integrity of the academic process. The Panel also considered that this was not the Student’s first offence. As reflected in the JSP, the Student had previously been sanctioned for the possession of an unauthorized aid while writing a final examination.

14. However, there were also mitigating factors to consider. The Student had cooperated in the process and entered into the ASF and JSP, thereby showing that she had accepted responsibility for her conduct. She is only four credits away from graduation from the University.

15. Having regard to the above, and based on its review of similar cases presented by counsel to the University, the Panel agreed that the recommended sanctions are appropriate in the circumstances, and made the following order:

- a) The Student is guilty of the academic offence of falsifying evidence, contrary to section B.I.1(a) of the Code of Behaviour on Academic Matters.
- b) the following sanctions shall be imposed on the Student:
 - i. a final grade of zero in CSC108H5, 2015 (9);
 - ii. a suspension from the University for three years from May 1, 2017 to April 30, 2020; and
 - iii. a notation of the sanction on her academic record and transcript until April 30, 2021.
- c) this case shall be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction or sanctions imposed, with the name of the Student withheld

Dated at Toronto, this 20th of June, 2017,

A handwritten signature in cursive script, appearing to read "A Heale".

Ms. Amanda Heale, Chair