

Case No.: 1109

**THE UNIVERSITY OF TORONTO
UNIVERSITY TRIBUNAL**

IN THE MATTER OF charges of academic misconduct filed on April 27, 2020

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 am. S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

J [REDACTED] A [REDACTED] (The “Student”)

REASONS FOR DECISION

Hearing Date: November 26, 2020, via Zoom

Panel Members:

Ms. Erin Dann, Chair
Professor Lynne Howarth, Faculty Panel Member
Ms. Emily Hawes, Student Panel Member

Appearances:

Ms. Lily Harmer, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Mr. Christopher Lang, Hearings Secretary, Office of the Appeals, Discipline and Faculty Grievances, University of Toronto

Not in Attendance:

The Student

1. A Hearing of the Trial Division of the University Tribunal convened on November 26, 2020, by Zoom, to consider charges of academic dishonesty brought by the University against the Student, under the *Code of Behaviour on Academic Matters*, 1995 (the “*Code*”). The Student was informed of the charges by letter dated April 27, 2020, from Professor Heather Boon, Vice-Provost, Faculty & Academic Life.

PRELIMINARY ISSUE: PROCEEDING IN THE ABSENCE OF THE STUDENT

2. The hearing was scheduled to commence at 9:45 a.m. The Tribunal waited until 10:00 a.m. before commencing the hearing. The Student did not appear at the hearing.
3. Pursuant to Sections 6 and 7 of the *Statutory Powers Procedure Act* (the “*Act*”), and Rule 17 of the University Tribunal *Rules of Practice and Procedure* (the “*Rules*”), where reasonable notice of an oral hearing has been given to a party in accordance with the Act and the party does not attend at the hearing, the Tribunal may proceed in the absence of the party, and the party is not entitled to any further notice of the proceeding. In this case, the University requested that the Tribunal proceed with the hearing in the absence of the Student.
4. Pursuant to Rule 9, a Notice of Hearing may be served on a student by various means, including by: sending a copy of the document by courier to the Student’s mailing address contained in the Repository of Student Information (“ROSI”); or emailing a copy of the document to the Student’s email address contained in ROSI.
5. The University’s *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining on ROSI a current and valid University-issued email account. The Policy also makes it clear that students are expected to monitor and retrieve their mail, including electronic messaging account(s) issued to them by the University, on a frequent and consistent basis.
6. Counsel for the Provost filed various affidavits setting out the measures taken regarding service on the Student. The University filed evidence that the Student was served with the charges by email on April 27, 2020, at the email address provided by the Student to the University of Toronto in ROSI. The evidence filed by the University further confirmed that the Student was served by email with a Notice of Electronic Hearing on November 11, 2020.
7. It should be noted that both the scheduling of this hearing and the hearing itself took place during the COVID-19 pandemic. On October 19, 2020, due to the physical restrictions necessitated by that pandemic, Assistant Discipline Counsel requested that the hearing proceed electronically on November 26, 2020. The Student was advised of this request by email and was given a deadline of October 27, 2020, to provide submissions in relation to

this request. No reply from the Student was ever received and the hearing was ordered and scheduled to proceed electronically.

8. In addition to the above, the University filed evidence demonstrating the efforts made to ensure the Student was aware of the allegations, the scheduling of the hearing and that she was able to attend. In addition to the service of the documents outlined above, correspondence via email was sent to the Student which included invitations for discussion, efforts to arrange scheduling, disclosure of material and reminders of the hearing. All went unanswered.
9. Having reviewed the evidence and heard the submissions of counsel for the Provost, the Tribunal concluded that the Student was given reasonable notice of the hearing in accordance with the notice requirements set out in the *Act* and the *Rules*. Accordingly, the Tribunal proceeded to hear the case on its merits in the absence of the Student.

THE CHARGES

10. At all material times, the Student was a registered student at the University in the Faculty of Arts & Science.
11. The University alleged that the Student, on or about April 15, 2019, knowingly represented as her own an idea or expression of an idea or work of another in a report submitted in FOR201H – Conservation and Management of Tropical and Subtropical Forests (the “Course”), contrary to section B.I.1(d) of the *Code*.
12. The University alleged, in the alternative, that the Student 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*.
13. The particulars of the charges were as follows:
 - a. In Winter 2019 the Student enrolled in the Course, taught by Professor Sean Thomas.
 - b. Students in the Course were required to submit a Forest Conservation Consultant Report (“Report”). The Student submitted her Report to fulfill this requirement.
 - c. The Student submitted her Report knowing that it contained ideas, the expression of ideas, and verbatim or nearly verbatim text from the work of other people in published works (the “Sources”) which were not the Student’s ideas or original work.

- d. The Student knowingly represented the work of another person or persons who wrote the Sources as her own. The Student knowingly included in her Report ideas and expressions that were not her own, but were the ideas and expressions of another person, or persons, who wrote the Sources, which the Student did not acknowledge appropriately in her Report.
- e. The Student knowingly submitted her Report with the intention that the University of Toronto rely on it as containing her own ideas, expressions of ideas or work in considering the appropriate academic credit to be assigned to the Student's work.
- f. For the purposes of obtaining academic credit and/or other academic advantage, the Student knowingly committed plagiarism in her Report.

THE EVIDENCE

- 14. The Tribunal received affidavit evidence from Professor Sean Thomas, who taught the Course in the winter of 2019. Professor Thomas attended the hearing by Zoom and answered questions from the panel members.
- 15. At the beginning of the Course, Professor Thomas emphasized to students the importance of academic integrity. The Course syllabus included the following passage on the front page:

PLAGIARISM: There is a lot of good on-line information available on tropical forests. **Don't even think about copying** from a website or other source for any written assignment! We will be using Turnitin as a means of deterring plagiarism of the longer written assignments in the course.

- 16. Students in the Course were required to submit a Forest Conservation Consultant Report worth 25% of their final grade by April 11, 2019. Students were required to work in groups of five students, with each student responsible for one section of the Report and all students contributing to a final chapter.
- 17. The instructions for the Report reminded students of the importance of proper referencing, including the following:

Remember to use proper referencing in all cases using the APA or similar format. Web sites will be valuable resources but make sure they are reputable and be sure to reference them properly. Click [here](#) for tips on citing electronic references. DO NOT use Wikipedia as a reference! Pictures may be helpful BUT REMEMBER, these must be referenced too!

18. On April 15, 2019, the Student's group submitted their Report entitled "Forest Conservation Action Plan: West-Cambodia." The Student was responsible for writing Part 2 of the Report, titled "Forest Ownership and Formal Conservation Status."
19. As indicated in the course syllabus, Professor Thomas used the "Turnitin" software. The report generated by Turninit revealed that a significant portion of the Report authored by the Student was copied verbatim from several online sources.
20. Professor Thomas visited each of the online sources himself and compared the content of the Report to those sources. He determined that at least 80% of the Report purportedly authored by the Student was, in fact, copied from the online sources, including entire paragraphs of text. The Student did not cite all of the sources in the Report and did not use any quotation marks in the Report.
21. A copy of the Student's Report and the online sources were both attached as exhibits to Professor Thomas' affidavit.
22. Following his review of the Report, Professor Thomas contacted the Student on April 17, 2019, by email to set up a meeting to discuss the Report. She did not respond to Professor Thomas' message. Further attempts to set up a meeting to discuss the issue also went unanswered.
23. As noted above, the Student did not attend the hearing.

DECISION OF THE TRIBUNAL ON CHARGES

24. Having considered all the evidence heard during the hearing and the affidavit evidence, the Tribunal found that the Student knowingly represented the work of another person or persons who wrote the online sources as her own. Having reviewed the Report of the Student and compared it to the content of the online sources, the Panel agrees that approximately 80% (and certainly more than half) of the Student's portion of the Report was copied verbatim from various online sources. Those online sources were not properly referenced in the Report, and, in some cases, not cited at all.
25. Consequently, the Tribunal finds that Charge #1 (as outlined in paragraph 11) above had been proven with clear and convincing evidence on a balance of probabilities. Accordingly, the Tribunal entered a finding of guilt with respect to the Charge.
26. The Panel was advised that if the Tribunal convicted the Student on Charge #1, the University would withdraw Charge #2 (the alternative charge) and that charge was so withdrawn.

PENALTY

27. The University sought the following penalties:
- a. a final grade of zero in the course FOR201H1S;
 - b. a suspension from the University of Toronto from the date of this order for a period of two years;
 - c. a notation of the sanction on the Student's academic record and transcript from the date of this order for a period of three years; and
 - d. that this case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

28. The Provost called no further evidence.

DECISION OF THE TRIBUNAL ON PENALTY

29. The Panel heard submissions regarding the appropriateness of the penalty, reviewed relevant past decisions of the Tribunal submitted by the University, and considered the factors set out in *University of Toronto and C.* (File No. 1976/77-3; dated November 5, 1976).
- a. **The character of the Student.** As the Student did not participate in the proceeding, there was no evidence before the Tribunal regarding the Student's character other than the facts relating to this offence.
 - b. **The likelihood of a repetition of the offence.** The Student did not have a prior record of academic offences and the offence here appears to be an isolated incident. Given the Student did not attend the hearing, the Panel was unable to make any further findings regarding the likelihood of a repetition of this offence.
 - c. **The nature of the offence committed.** The Panel took into consideration the serious and deliberate nature of the offence and the detriment to the University. Plagiarism strikes at the very heart of academic integrity.
 - d. **Any extenuating circumstances surrounding the commission of the offence.** The Student did not participate in this hearing. Accordingly, there is little evidence before the Tribunal of mitigating or extenuating circumstances.
 - e. **The detriment to the University occasioned by the offence.** The Panel accepts the University's concerns that plagiarism diminishes the relationship of trust

between the University and its students, and it undermines the evaluative process fundamental to the academic setting.

- f. **The need to deter others from committing a similar offence.** General deterrence is an important factor in these cases. The Panel accepts that the University and the Tribunal must send a strong message to other students that such misconduct is considered a serious offence.
30. The determination of an appropriate penalty in every case by the Tribunal will depend on an assessment of these principles and factors in the individual circumstances of the case. However, the Discipline Appeals Board has stressed the importance of a general consistency in the approach of Tribunals to sanction, so that the students are treated fairly and equitably.
31. Having regard to the cases presented by the University, the submissions of the University, and the relevant factors outlined above, the Panel agrees that the recommended sanctions are appropriate.
32. Accordingly, at the conclusion of the hearing, the Panel made the following Order:
 - a. The hearing proceed in the absence of the Student.
 - b. The Student is guilty of one count of plagiarism, contrary to section B.I.1(d) of the *Code of Behaviour on Academic Matters*;
 - c. The following sanctions shall be imposed on the Student:
 - i) a final grade of zero in the course FOR201H1S;
 - ii) a suspension from the University of Toronto from the date of this order for a period of two years; and
 - iii) a notation of the sanction on the Student's academic record and transcript from the date of this order for a period of three years; and
 - d. This case be reported to the Provost for publication of a notice of the decision of the Tribunal and the sanction imposed, with the Student's name withheld.

DATED at Toronto, January 22, 2021.



Erin Dann, Chair