

Appeal of  
departmental  
sanction

IN THE MATTER OF THE UNIVERSITY TRIBUNAL  
OF THE UNIVERSITY OF TORONTO

BETWEEN: The University of Toronto

- and -

Ms. L.

REASONS

As is perhaps clear from the discussion that we have had with counsel, the Tribunal is not satisfied that the student in this particular instance "admits the alleged offence" within the meaning of section 16(5). It appears to us that the essay-writing requirements of department were brought to the student's attention and she admitted that her essay did not conform to those requirements. We are doubtful as to whether she was advised that the offence was to "knowingly" represent as her work that of another. That knowledge is the essence of the offence and if she did not plead guilty to that offence, or "admit" that offence then the Tribunal is without jurisdiction and the Department was without jurisdiction to impose the 40% reduction in grade. In our view this should be viewed as a situation where the admission had not been made, without prejudice to the University's rights to evaluate or otherwise deal with the work and

to deal with the question of whether it wished to allege that the student had or had not committed an offence, so that charges might be laid if the University wished to proceed in that fashion.

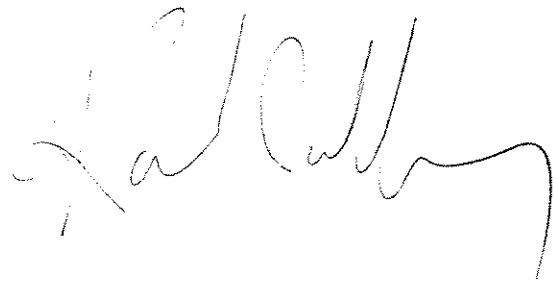
It also appears to us to be a significant difficulty that the Enactment provides for a discretion on the part of the instructor which was not exercised in this case. While there is obvious merit in attempting to achieve some uniformity as was contemplated by Dean Farquharson in distributing his memorandum as to the penalties to be imposed, it did not appear to us that the instructor had considered the case before it, but rather had imposed the penalties that were suggested in the memorandum. Indeed the memorandum itself suggests that if footnotes are present and sources are cited those are mitigating circumstances. It appeared to us that while the footnotes might have been sloppy, there might well be a case to be made in this instance suggesting that those mitigating circumstances were present. Without a full analysis of the essay we cannot really comment on that question further.

It does seem that it will be necessary for a department in asking a student

to admit an offence to make it very clear that what is being discussed is not anything approaching bad work. What is being discussed is the knowing representation of another's work as one's own, and it ought to be pointed out that an admission of that offence will carry with it penalties that may well go far beyond an absence of a grade in the course. The state of the accused's mind is so critical to the commission of the offence that in one fashion or another it seems to us that it must be brought home to a student before such an admission is acted upon.

The word "plagiarism" can possibly cover everything from sloppy or inadequate attribution of sources to a deliberate attempt to mislead. A student who erroneously provides inadequate attribution can be awarded a greatly reduced grade. A "knowing" attempt to represent another's work as one's own can be punished. The distinction is critical, and we are not satisfied that either the department or the student made the distinction.

In all the circumstances, the matter is remitted to the University with the student's alleged admission struck out for the moment and with the penalty therefore not being operative at this time.



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Karl Jaffary

D.S. Affleck

A. Keith

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