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CASE SUMMARY: A TRIBUNAL REASONABLY DECLINED AN ADJOURNMENT AND REASONABLY PROCEEDED WITH ONE HEARING ON LIABILITY AND PENALTY

Administrative law – Decisions reviewed – University Appeal Board – Adjournment of hearing – Judicial review – Appeals – Procedural requirements and fairness – Standard of review – Reasonableness- Universities – Student discipline

Spence v. University of Toronto, [2019] O.J. No. 877, 2019 ONSC 1085, Ontario Superior Court of Justice, February 21, 2019, K.E. Swinton, D.L. Corbett and A. Doyle JJ.

The applicant sought judicial review of a decision from the Discipline Appeals Board of the University of Toronto (the “Appeals Board”) which dismissed the applicants appeal from the Tribunal of the University of Toronto (the “Tribunal”). The Tribunal found the applicant guilty of academic dishonesty after evidence revealed plagiarism in the applicant’s doctoral thesis. The Tribunal accepted that the applicant should be awarded a grade of zero and recommended to the President of the University that the applicant’s degree be cancelled, and he be expelled from the University. At the Tribunal hearing, the applicant argued that he was denied procedural fairness when the Tribunal declined to grant an adjournment and conducted the liability and penalty proceeding in one hearing.

The Appeals Board held that it was not unfair to deny an adjournment or that it was unfair to proceed directly to the penalty hearing. The Appeals Board upheld the decision of the Tribunal on both liability and penalty.

On judicial review, the applicant argued that he was denied procedural fairness when the Tribunal declined to grant an adjournment and conducted the proceeding in one hearing rather than bifurcating liability and penalty. The applicant also argued that the Appeals Board decision was unreasonable.

The Court held that the Tribunal’s denial to grant a further adjournment was reasonable given the procedural history and lack of fresh medical evidence that might otherwise necessitate an adjournment. The Court held that it was not essential to bifurcate liability and penalty as the Tribunal provided the applicant with notice that there is only one proceeding before the Tribunal and therefore, the Appeals Board decision to proceed directly to the penalty hearing was reasonable.

With respect to the merits of the Appeals Board decision, the Court held that it was “manifestly reasonable” not to intervene in the Tribunal’s decision. The application for judicial review was dismissed with fixed costs awarded to the respondent.

This case was digested by [Jackson C. Doyle](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact Jackson C. Doyle at jdoyle@harpergrey.com.