

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of
Hearing: February 25, 2016

Panel: (Hedy) Anna Walsh, Chair; Moira Calderwood and Cezary Paluch, Members

Re: Maurice Francis Williams
Holder of Tow Truck Driver's Licence No. D09-4294129

Counsel for Municipal Licensing and Standards: Ms. Amy Murakami

INTRODUCTION

1. MLS requested Mr. Williams to appear before the Toronto Licensing Tribunal (the "Tribunal") to determine whether or not his Tow Truck Driver's Licence should be suspended, revoked or have conditions placed on it.
2. The key issue is whether Mr. Williams' failure to comply with terms of his probationary licence, as well as his medical history and his history of criminal, bylaw and *Highway Traffic Act* charges and convictions provide reasonable grounds to believe that his operation of a tow truck would pose a risk for the public's safety.
3. Mr. Williams had been previously licensed as a tow truck driver in 1991, 1993, and 1995. The licence issued in 1995 was cancelled in September 2005 due to non-payment of the renewal fee. On May 2, 2013, the Tribunal granted Mr. Williams a Tow Truck Driver's Licence, subject to stringent conditions, that included placing the licence on probation for a period of four years.
4. Mr. Williams was not present at the hearing on February 25, 2016. The Tribunal proceeded under Rule 17 of its Rules of Procedure, which states:

Where a person is properly served with notice of a pre-hearing or hearing and does not attend at the time and place appointed, the Toronto Licensing Tribunal may proceed in that person's absence and without further notice to that person.

Rule 7(1)(b) of the Tribunal's Rules of Procedure sets out that service can include sending "by regular or registered mail to the person's last known address." The Tribunal was satisfied, via information from Tribunal staff and counsel for the City, that notice was mailed to Mr. Williams' last known address. That being the case, the Tribunal proceeded, under Rule 17, to hold a hearing in Mr. Williams' absence and without further notice to him.

As a result, the City presented its case on an *ex parte* basis.

5. After hearing the evidence submitted by the City, as well as the submissions of City counsel, the Tribunal ordered that Mr. Williams' Tow Truck Driver's Licence be revoked.

CITY'S EVIDENCE

The City called one witness to testify on its behalf.

1. Mr. Terry Van Elswyk, Supervisor, for Municipal Licensing and Standards (MLS) testified after being affirmed. He reported having prepared Report No. 6496 that was entered into evidence and marked as Exhibit #1. He reported Mr. Williams was a licensed Tow Truck Driver, that the licence was set to expire on May 7, 2016 and that there were concerns related to the authenticity of letters received from Mr. Williams' family physician, Dr. Paul Pitt. As part of his probationary licence requirements, Mr. Williams was to provide to MLS, letters on a monthly basis from his physician, stating he had met with his physician and was taking his medication.
2. Mr. Terry Van Elswyk referred to pages 4-119, Report 5900, dated November 9, 2012 (which was embedded in Report No. 6496), outlining:
 - Mr. Williams' criminal conviction on the charge of possession of property obtained by crime,
 - a police criminal record check submitted from York Regional Police to MLS on February 21, 2012 (page 10),
 - additional criminal convictions registered against Mr. Williams (page 14), which included a conviction for "utter a forged document",
 - bylaw and *Highway Traffic Act* convictions registered against Mr. Williams (pages 48-49),
 - a chart of outstanding fines (page 128),
 - extracted minutes of the Tribunal hearing held May 2, 2013, in which Mr. Williams was granted a probationary licence for 4 years requiring him to submit a letter every month from his family physician, Dr. Paul Pitt, to indicate his attendance at the physician's office and that he was taking his medications, as well as an updated criminal and driving abstract (page 174).
3. Mr. Van Elswyk testified about medical notes received from Dr. Paul Pitt, revealing:
 - dates that Mr. Williams was in attendance, was taking his medication and was not a danger to the public (pages 182, 184, 186, 188 and 189),
 - 3 medical notes that appeared to be forged (pages 183, 185 and 188),
 - dates that Mr. Williams was not in attendance (page 188),
 - dates of notes not written by Dr. Paul Pitt (page 193).
4. Mr. Van Elswyk testified that MLS requested Mr. Williams to send original notes from Dr. Paul Pitt to MLS by a specific date, that he had not complied and that many of the faxes originated from an SK Convenience store.
5. Mr. Van Elswyk testified that he last saw Mr. Williams in the hallway at the prehearing scheduled on January 12, 2016. He advised him they were running late. After 15-20 minutes, Mr. Williams was gone. Mr. Van Elswyk was informed by Mr. Jamil Elannan, former Acting Supervisor, Toronto Licensing Tribunal that Mr. Williams reported wanting to "turn in his licence." Mr. Jamil Elannan confirmed at the hearing

February 25, 2016

by telephone that Mr. Williams expressed, at the time, that he no longer wanted a licence.

Given that this was an *ex parte* hearing, no one cross-examined Mr. Van Elswyk and his evidence was therefore unchallenged.

CITY'S SUBMISSIONS

1. In her closing submissions, counsel for MLS submitted that Mr. Williams' licence should be revoked, as he did not comply with his probationary conditions. On May 2, 2013, the Tribunal imposed extremely stringent conditions that were pivotal to the issuance of the licence that included for Mr. Williams to provide a note from his physician on a monthly basis, indicating: his attendance, that he is taking his medication, and that the physician has no issue that his driving and operating a tow truck would endanger public safety. She submitted that not only did Mr. Williams not comply with those probationary conditions, but appeared to be possibly regressing, in that documents received by MLS appeared to be forged. In addition, he had a long history of criminal charges and convictions and several bylaw and *Highway Traffic Act* violations. Given the serious nature of these circumstances, there were reasonable grounds to believe that Mr. Williams has not complied with the law in the past, and will not comply with the law in the future.

DECISION

1. The Tribunal orders that Mr. Williams' tow truck licence be revoked, effective immediately, and that he turn in his photo ID card and Tow Truck Driver's licence to MLS within 30 days.
2. The Tribunal specifically noted the following factors which, in our view, proved Mr. Williams' lack of honesty and integrity:
 - a. There is compelling evidence that the date ("Aug 21/2015") on the note at page 180 of Report #6496 appears to be forged. Other than the date, this note appears to be an exact copy of the note found at page 186, dated "May 21/2015." Dr. Pitt informed MLS in writing (page 194) that the date "Aug 21/2015" is not in his handwriting.
 - b. There is compelling evidence that the date ("April 20/2014") on the note at page 183 appears to be forged. Other than the date, this note appears to be an exact copy of the note found at page 182, dated "Feb 20/2014." Dr. Pitt informed MLS in writing (page 190) that the date "April 20/2014" is not in his handwriting.
 - c. There is compelling evidence that the date ("June 16/2015") on the note at page 185 appears to be forged. Other than the date, this note appears to be an exact copy of the note found at page 184, dated "April 16/2015". Dr. Pitt informed MLS in writing (page 193) that the date "June 16/2015" is not in his handwriting.

February 25, 2016

- d. Dr. Pitt informed MLS in writing (page 189) that he wrote the note dated April 16, 2015, based on information from Mr. Williams' wife, but did not see Mr. Williams on that date. Thus, the Tribunal concludes that Mr. Williams did not comply with the licence condition, that he attend the doctor monthly, as the doctor's note on that occasion was based on information from Mr. Williams' wife.
 - e. Dr. Pitt informed MLS in writing (page 188) of dates on which he saw Mr. Williams in 2014 and 2015. Those dates were not monthly. Again, the Tribunal concludes that this constitutes a breach of a licensing condition imposed by the Tribunal in 2013.
 - f. Mr. Williams failed to comply with the condition that he submit updated abstracts of his criminal and driving records for the renewal period in 2014/2015 (Due to staff oversight, his licence was nevertheless renewed, without the required documents). When MLS obtained the updated documents (pages 177 and 178-9), they did not show any new infractions, charges or convictions.
3. When the Tribunal granted Mr. Williams' conditional licence in 2013, it stated in its written decision:

Since medical treatment is so clearly pivotal to Mr. Williams' good and reliable behaviour it is important that any licence granted must have some way of ensuring that this treatment continues to be effective to ensure the health and safety of the public.

The Tribunal today (February 2016) is not satisfied that this important nexus between Mr. Williams' health and the public's safety is maintained. Rather, the evidence before us indicates that Mr. Williams may be regressing to his former negative behaviour.

4. Accordingly, the strong convincing evidence presented at the hearing of Mr. Williams' conduct provide reasonable grounds to believe that he has not carried on, or will not carry his operation of a tow truck with integrity and honesty, and his continuing to be licensed would constitute a danger to members of the public. In addition to his failure to comply with his probationary conditions, including medical notes, he has a long history of criminal charges and convictions, as well as several bylaw and *Highway Traffic Act* convictions.
5. The rules governing tow truck drivers exist for a reason; to protect the safety of the public and to ensure for the performance of activities with integrity and honesty. Based on the totality of all of the circumstances as outlined above, the Tribunal orders revocation of Mr. Williams' licence, in order to protect the health and safety of the public, in accordance with Section 545-4C(1), subsections (a), (b) and (e) of the Municipal Code.

February 25, 2016

Originally Signed

(Hedy) Anna Walsh, Chair
Panel Members, Moira Calderwood and Cezary Paluch concurring

[Reference: Minute No. 25/16]

Date Signed: March 17, 2016