

## REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

---

**Date of**

**Hearing:** May 5, 2016

**Panel:** Richard Quan, Chair; Aly N. Alibhai and Dr. (Hedy) Anna Walsh,  
Members

**Re:** Kevin Singh  
Applicant for a Tow Truck Driver's Licence (Application No. B645062)

**Counsel for Municipal Licensing and Standards:** Mr. Matthew Cornett

**Counsel for Applicant:** Unrepresented

### INTRODUCTION

Kevin Singh, ("Mr. Singh), requested a hearing before the Toronto Licensing Tribunal, ("TLT"), to determine whether or not a tow truck driver's Licence should be issued, have conditions place on it or if the application should be denied.

Mr. Singh waived his right to legal counsel and acknowledged his understanding of the matter before him.

By way of background, Mr. Singh was first issued a tow truck driver's licence on July 1, 1999. On March 24, 2005, Municipal Licensing and Standards, ("MLS"), referred this licence to the TLT to determine whether a renewal should be granted citing concerns over recent *Criminal Code* convictions, *Highway Traffic Act* convictions, City By-law offences, and outstanding fines. TLT granted a renewal of Mr. Singh's licence placing conditions and attaching a suspension as well as a term of probation on it. This licence was cancelled on September 30, 2005 because Mr. Singh did not pay the renewal fee.

On December 3, 2008, Mr. Singh submitted an application for a tow truck driver's licence; this licence was issued to him on May 11, 2009. On May 21, 2015, MLS referred this licence to the TLT. On information received from Toronto Police Services concerning three *Highway Traffic Act* charges flowing from a motor vehicle collision involving a tow truck that took place on June 29, 2014 and on a failure to update and report a licence plate change involving the subject vehicle in this incident, MLS requested Mr. Singh to show cause before the TLT why the licence should not be revoked. As Mr. Singh did not attend the hearing of May 21, 2015, the Tribunal revoked the licence on an *ex parte* basis.

On January 7, 2016, Mr. Singh submitted an application for a tow truck driver's licence (Application No. B645062). By reason of the careless driving convictions arising from the motor vehicle accident of June 29, 2014 and because of a long history of *Criminal Code* and driving offences, MLS denied Mr. Singh's application on the grounds that there had been a breach of the business licensing thresholds in the *Municipal Code*. On January 7, 2016, a Notice of Licence Non-Recommendation was sent to Mr. Singh. Because of this

May 5, 2016

decision, on January 18, 2016, Mr. Singh, through his solicitor at that time, requested a hearing before the TLT.

For the reasons stated below, the Toronto Licensing Tribunal denied Mr. Singh's application for a tow truck driver's licence.

## **CITY'S EVIDENCE**

The City called one witness. Mr. Terry Van Elswyk ("Mr. Van Elswyk"), was duly affirmed and identified himself as the Supervisor of MLS. He testified that Report No. 6560, dated February 2, 2016 had been created by MLS staff and that he had reviewed it and could attest to its contents. The report was entered into the record as *Exhibit #1*.

Mr. Van Elswyk testified that Mr. Singh's driving history and licence holder relationship have both been a concern to MLS. While operating a licensed tow truck, Mr. Singh had incurred many *Highway Traffic Act* convictions, been involved in multiple collisions, and received fines for numerous other driving infractions. In his dealings with MLS and TLT, Mr. Singh had his licence cancelled in 2005 for non-payment of the renewal fee; had his licence revoked in 2014 because he did not appear as requested before the TLT; and failed to report that there was a change of plates around the time of the tow truck collision on June 29, 2014.

Mr. Van Elswyk testified that the serious incident involving the unexplained "hit and run" collision of a tow truck and 4 properties in the Lansdowne neighbourhood on June 29, 2014, and Mr. Singh's careless driving conviction that resulted from it, was of utmost concern to MLS in arriving at its denial decision.

Mr. Van Elswyk referred to the following portions of Report No. 6560:

- Pages 4-5, Minute No. 87/05, The March 24, 2005 TLT hearing in which Ms. Olga Kuztelska, Supervisor – Bylaw Enforcement, testified on the contents of report No. 3671. This report disclosed that Mr. Singh had been recently convicted for the *Criminal Code* charge of Carrying a Concealed Weapon on March 23, 2005. In addition, Ms. Kuztelska testified that Mr. Singh had 6 by-law convictions, 8 actions registered on his driving record, and \$705.00 in unpaid fines at the time. Mr. Singh testified that he was trying to improve his driving record and become a better person. TLT granted a renewal of Mr. Singh's licence attaching with it several conditions including a three year probation and a six month suspension. Ultimately, the licence was cancelled as Mr. Singh did not pay the requisite renewal fee.
- Pages 7-9, Extracts from report No. 6285 dated October 23, 2014. The report outlined how MLS received information from Toronto Police Services regarding their investigation into an incident, later identified to involve Mr. Singh that took place on June 29, 2014. It described a "hit and run" collision by a tow truck, with Provincial plate 466 licensed with MLS, that overran curbs colliding into 4 properties on Lansdowne Ave. Furthermore, the report disclosed that Mr. Singh had failed to report a change to the Provincial plates on the tow truck as verified by a requested MLS inspection on September 11, 2014.

May 5, 2016

- Pages 25-27, the Motor Vehicle Accident Report and Fail to Remain Reports prepared by Toronto Police Services for the incident on June 29, 2014.
- Pages 38-42, a Driver Abstract of Mr. Singh's Driver Record produced through a Ministry of Transportation search which indicated 50 driving convictions over the period of December 23, 1999 to March 18, 2014.
- Page 49, a Driver Abstract showing Mr. Singh's Driver Collision Record indicating 8 collisions, 3 involving non-fatal injuries and 5 involving property damage alone, during the period from February 6, 2000 to January 7, 2012.
- Page 91, Minute No. 69/15 which captured the revocation of Mr. Singh's licence at an *ex parte* hearing before the TLT on May 21, 2015 relying in part on the testimony of Detective Jackie Brown who described the June 29, 2014 collision incident.
- Page 93, Driver's Abstract from a search of Ministry of Transportation records on January 7, 2016 for Mr. Singh indicating a conviction for Careless Driving from the incident of June 29, 2014.
- Pages 122-123, an update provided by MLS to the TLT with the results of a recent report from the Ministry of the Attorney General's Integrated Court Offences Network (ICON Report) and a copy of that report dated April 10, 2016 indicating that Mr. Singh has been charged with two *Highway Traffic Act* speeding offences on February 21, 2016 and on February 28, 2016 both involving a tow truck. The disposition of these offences is still pending.

Mr. Singh did not have any questions for Mr. Van Elswyk in cross-examination.

## **APPLICANT'S EVIDENCE**

Mr. Singh was duly sworn and identified himself for the record. Mr. Singh did not call any witnesses to testify on his behalf.

Mr. Singh testified that he was not the driver of the tow truck that was involved in the motor vehicle accident of June 29, 2014 on Lansdowne Avenue. Mr. Singh said that the driver of the tow truck was not known; no one came forward to take responsibility for the accident. Mr. Singh said that, for the reputation of the tow truck company, he agreed to take the blame for what happened on June 29, 2014. Mr. Singh explained that he went to the police station to report the offence; he tried to offer help to the property owners for the damage that was caused; and the company fired "everyone."

Mr. Singh testified that the licence plate was changed after the June 9, 2014 incident in the course of repairing the tow truck. He said that the former plate was under the name of "Tow Life" which was known to the police; and, in order to protect the reputation of the company and its working relationship with the police, the switch was made.

Mr. Singh testified that the large number of driving offences comes as part of being a tow truck driver. The long shifts and the necessity for "being on the road" ready to take on work leads to many driving offences. Mr. Singh said "it happens."

Mr. Singh testified that he did not attend the May 21, 2015 hearing before the TLT because he was suffering from depression. He said that his representative at the time was to appear on his behalf and did not do so.

May 5, 2016

Mr. Singh testified that he now had new responsibilities towards his family. He was living at home with his mother and sister. His father had passed away five years ago. He needed to earn money to pay for his sister's university tuition and to upkeep the house.

Mr. Cornett, in his cross-examination of Mr. Singh, adduced the following:

The City asked Mr. Singh whether he was operating a tow truck when the speeding charges were incurred as described on Page 123 of the report. Mr. Singh, anticipating that the motive behind the question was suggesting that he was operating a tow truck without a licence, explained that he was operating a tow truck to pull scrap cars and this did not require a licence.

On the matter of the June 29, 2014 incident, the City asked Mr. Singh several questions:

- Mr. Singh reiterated that he was not the driver in the incident.
  - Mr. Singh said that he went to the police the following week after the accident and said that he was driving the vehicle.
  - He said that he went to court and pleaded guilty to the three charges including the Careless Driving charge.
  - Mr. Singh said that he pleaded guilty to the charges to protect the reputation of the company given the "hit and run" nature of the incident.
  - Mr. Singh said that 5 employees were fired as a result of it.

### **SUBMISSIONS – City**

The City submitted that Mr. Singh's application for a tow truck driver's licence should be denied on the evidence of extensive breaches of the driving thresholds contemplated by the *Municipal Code* contained in Mr. Singh's history of operating a tow truck. The City reiterated its concerns extending back to the Careless Driving charge in 2005 through the June 29, 2009 conviction; and now, reminded the Tribunal of the two new pending charges of February 2016.

The City submitted that Mr. Singh's assertion that he was not the driver involved in the incident on June 29, 2014 did not seem believable. The city questioned why anyone would take the blame for this offence and found no logic in Mr. Singh's explanation of doing it to protect the company name.

The City submitted that it was a public safety concern that a tow truck would be involved in all these driving charges and convictions. The City submitted that 50 convictions from 1999 to 2012 was a lot for one individual to have.

### **SUBMISSIONS – Mr. Singh**

Mr. Singh submitted that tow truck driving was all he knew. He needed the licence in order to make a living and to support his family.

May 5, 2016

Mr. Singh submitted that the tow truck driver's reputation is very important with the police as it was with the public. He submitted that it was a small industry in which your reputation could affect the number of towing referrals you get.

Mr. Singh stated that he now understood how important the licence was to him and that he has become a better, slower, safer driver.

## **DECISION**

Having weighed all the evidence, the Tribunal denies Mr. Singh's application for a tow truck driver's licence. This difficult decision was arrived at for the following reasons:

Mr. Singh has shown a lengthy history of a wanton disregard for the law with respect to driving. The evidence is clear by the number of convictions and through the seriousness of these offences. In short, Mr. Singh has exhibited a consistent pattern of driving behaviour; and given the two pending charges that he has recently incurred, the Tribunal is justifiably concerned.

Whether or not Mr. Singh actually was the driver in the June 29, 2014 incident is not a matter for the Tribunal to decide. Using this as an explanation in this forum to validate issuance of a licence appears to raise questions about Mr. Singh's honesty and integrity or puts into question his ability to make prudent business decisions. By admitting to and pleading guilty to the charges arising from the June 29, 2014, incident, Mr. Singh took responsibility for not only what happened that day but for the consequences flowing from it.

By his rationale that the accumulation of driving infractions and charges was an inherent hazard of the towing business, Mr. Singh clearly has not shown remorse about his own driving record. Furthermore, the Tribunal cannot endorse this line of thinking because its mandate is to balance the interest of public safety in its decisions; in essence, Mr. Singh's understanding of this runs contrary to public safety. His rationale for, and acceptance of, the accumulation of driving infractions as doing business in the towing industry is flawed.

The TLT must balance the protection of the public interest with the need for the applicant to earn a living. Mr. Singh has testified that he has been working; towing scrap vehicles, jacking cars for tire changes, etc.; towing tasks that do not require a licence. He has also testified that he makes referrals to other tow truck drivers. Though he has stated that he has responsibilities to support his family and upkeep the family dwelling, he has shown that he is able to earn an income through other means.

The above evidence, supporting the applicant's disobedience and disregard for the law is very convincing and compelling to provide reasonable grounds to believe that he has not carried on, or will not carry on, his business of operating a tow truck with integrity and honesty. We therefore take the City's position that a licence should not be granted. The Tribunal orders that the Applicant's request for a tow truck driver's licence is denied, 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*.

May 5, 2016

---

Originally Signed

\_\_\_\_\_  
Richard Quan, Chair  
Panel Members, Ali Alibhai and Dr. (Hedy) Anna Walsh concurring

*[Reference: Minute No. 61/16]*

**Date Signed:** July 14, 2016