

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of Hearing: May 28, 2015

Panel: Ted Yao, Chair; David Peacock and (Hedy) Anna Walsh, Members

Re: Barkat Ali Noorani
Applicant for Renewal of Taxicab Driver's Licence No. 001-4184744

Counsel for Municipal Licensing and Standards: Ms. Brennagh Smith

INTRODUCTION

This is an ex parte application 1 by the City for revocation, which succeeds.

Mr. Noorani first acquired a Toronto cab driver's licence in 2011. In November 2013 he applied for renewal for the 2014 calendar year. There was some delay because of unpaid by-law fines, but he paid the outstanding amount of \$605 and was thus entitled to have his renewal application considered. All the fines were related to his Toronto cab driver's licence². When the licence issuer examined the application, the number of convictions required that the renewal be refused because an administrative threshold had been exceeded and his licence was sent to this Tribunal for a hearing. Because of Code 545-484, the Toronto cab driver's licence was deemed to continue, that is, Mr. Noorani could continue to pick up fares, until the hearing. However, this changed on August 14, 2014. The licence issuer discovered that Mr. Noorani's Ontario driver's licence was suspended. Obviously, he could no longer drive legally. The licence issuer sent a registered letter advising him that his Toronto cab driver's licence was suspended and required him to turn in his Toronto cab driver's licence and photo ID. He did not.

On Saturday, October 25, 2014, Mr. Noorani accepted Michael Rushton, a Municipal Standards Officer, posing as a member of the public, as a fare. Mr. Noorani was driving

1 The City called Jamil Elannan, acting Tribunal Supervisor, who testified that Mr. Noorani was properly served with both a notice of a pre-hearing and this hearing and failed to appear to either. In fact Mr. Noorani was in contact with Mr. Elannan on the morning of the hearing and knew that the hearing was going to proceed but stated that he did not have \$3 TTC fare to attend. We ordered that the matter proceed in his absence and that the City should call evidence to support its application.

2 Dec 6, 2012	unauthorized parking, fine \$86 (date refers to conviction, not offence date)
Feb 8, 2013	unauthorized parking, fine \$114
Mar 1,, 2013	fail to serve first in line, fine \$144
Apr 19, 2013	unauthorized parking, fine \$86
Apr 25, 2013	unauthorized parking, fine \$114
Apr 26, 2013	unauthorized parking, fine \$91
Sept 12, 2013	unauthorized parking, fine \$86

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a Co-op cab at Air Canada Centre. Mr. Rushton charged him with two by-law offences in respect of his lack of Toronto cab driver's licence.

On Christmas day, 2014, a similar event occurred at 288 Bremner Blvd. This time the Municipal Standards officer was Kevin Lurkhur, in uniform, and Mr. Noorani was driving a Crown cab. Mr. Noorani was at the wheel, roof light on, waiting to pick up fares, and since Mr. Lurkhur knew him by appearance he charged him with two by-law offences. The two Rushton charges and two Lurkhur charges came before the courts in a "global plea bargain" in which the Rushton charges were withdrawn and the Lurkhur charges resulted in convictions with a fine of \$490 on one Lurkhur charge and zero on the other.

We now continue the narrative from the Highway Traffic Act viewpoint. The evidence shows the following:

2012 HTA convictions

Feb 10, 2012	no insurance card
Aug 7, 2012	fail to proceed
Oct 4, 2012	red light
Nov 19, 2012	red light
Dec 20, 2012	fail to stop

2013 HTA convictions

Jan 14, 2013	disobey sign
Feb 14, 2013	speeding
Mar 21, 2013	unsafe lane change
May 13, 2013	fail to pass safely
May 24, 2013	speeding
July 29, 2013	speeding
Oct 9, 2013	park on highway
Dec 20, 2013	improper stop

2014 HTA convictions

Jan 28, 2014	careless driving
Feb 11, 2014	Ontario driver's licence suspended for 6 months for demerit points passenger
Feb 14, 2014	fail to wear seatbelt (offence date prior to suspension)
Feb 17, 2014	driving while under suspension, unsafe lane change
Mar 3, 2014	no driver's licence (offence date prior to suspension)
April 3, 2014	disobey traffic sign (offence date prior to suspension)
Apr 8, 2014	Ontario driver's licence suspended due to unpaid fines
May 2, 2014	unsafe move (offence date prior to suspension)
Dec 3, 2014	driving while under suspension, cel phone

There are also numerous HTA convictions in 2011 and by-law convictions in 2013 as well as other HTA charges that are still pending in Provincial Offences Court.

On January 29, 2015, while driving a Beck cab, Mr. Noorani made a U-turn on Armoury St, in front of the University Avenue courthouse and was charged with unsafe lane

change, driving under suspension and arrested. The arrest was filmed and shown on local TV. Beck Taxi's manager called to enquire about Mr. Noorani's suspended Toronto cab driver's licence. Mr. Lurkhur then attended at Beck's premises and found that, far from turning in his licence and photo ID as required, Mr. Noorani appeared to have submitted non-standard documents to Beck. Mr. Lurkhur requested that police further investigate Mr. Noorani for fraud or attempted fraud but was told because of workload, the police were unable to open a new file in relation to the Beck documents.

The tests fall roughly along the lines of honesty and integrity and whether the cab driver is a good driver and the two overlap. Given Mr. Noorani's history of repeatedly driving while his Ontario licence is suspended (three convictions and one charge pending), the total outstanding fines (over \$11,000), the answer to whether Mr. Noorani will carry on the business of taxicab driving with integrity and honesty must be "no". This is further supported by the evidence in relation to continued use of a suspended taxicab driver's licence, photo ID and the non-standard Beck documents.

DECISION

Furthermore, he has numerous, almost unprecedented numbers of HTA and by-law charges and convictions (approximately thirty), so, the question of whether he has or will breach the law must be answered "yes". Based on these two tests and the Armoury Street arrest, the answer to whether he has or will endanger members of the public must be "yes". Only one of these tests has to succeed and all are met by the City. Accordingly, Mr. Noorani's Toronto cab driver's licence is revoked.

Originally Signed _____

Ted Yao, Chair

Panel Members, David Peacock and (Hedy) Anna Walsh concurring

[Reference: Minute No. 77/15]

Date Signed: June 18, 2015