

## REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

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**Date of**

**Hearing:** July 16, 2015

**Panel:** Lionel Miskin, Chair, (Hedy) Anna Walsh and Ted Yao, Members

**Re:** Zafar Iqbal  
Holder of Taxicab Driver's Licence No. D01-3606780

**Counsel for Municipal Licensing and Standards:** Lauren Elliott

**Licensee:** In Absentia

The Licensee had first been issued a Taxicab Drivers Licence on June 5, 2006. The licence would have expired on June 5, 2014, but he had paid the renewal fee for the ensuing year, and accordingly his licence continued to be valid when he was instructed by Municipal Licensing and Standards (MLS) to attend a hearing before this tribunal. He had not paid the renewal fee for the 2015-2016 year. The instruction to attend was sent to him by a registered letter advising that the concern for MLS was that he refused to transport a customer who was using the services of a guide dog.

The Licensee, although served with notice of the hearing date, failed to attend, nor did anyone appear on his behalf. Tribunal staff attempted to telephone him when he failed to appear at the hearing, but a call to his residence number produced a recorded announcement that the number was no longer in service, and a call to his cellular telephone was not answered. At 10:21 a.m. the Tribunal decided to hear the case in his absence.

### EVIDENCE

The City's first witness was Ms. Olga Kuztelska. Ms. Kuztelska identified herself as supervisor of bylaw enforcement for MLS and stated that her duties included overseeing preparation of reports for the Tribunal and gathering evidence. She stated that report number 6180 dated January 28, 2015, had been prepared by MLS staff, that she had reviewed it and could attest to its contents. The report was made exhibit #1. She said that she had rerun the searches in the report and that the updates confirmed the information in the report. She directed the Tribunal's attention specifically to the chart on pages one and two, listing charges and convictions against the Licensee, and the pages following which consisted of ICON screen shots showing particulars of the charges and convictions. The ICON sheets are taken from the court records of the Ministry of the Attorney General. The chart showed three convictions under the *Highway Traffic Act* (HTA), one conviction under the *Criminal Code of Canada* for uttering a threat to cause bodily harm, two convictions under the *Compulsory Automobile Insurance Act*, as well as five bylaw convictions. One of the HTA convictions was for disobeying a police officer and another was for using a hand-held device. One of the bylaw convictions was for refusing to serve a visually impaired person being guided or led by a dog. There was no

July 16, 2015

evidence about the circumstance surrounding the “threatening” conviction, but the court imposed a sentence of twelve months thereby signifying that it considered the matter serious.

The second City witness was Ms. Joan Robinson who identified herself as the visually impaired person who was refused service by the Licensee. She said the incident occurred on January 6, 2014, when she was left standing on the sidewalk in the cold with her guide dog. The dog was a golden retriever, a breed frequently used as guide dogs, and was in full harness. She testified that she informed the Licensee, who was driving a taxi under the Beck brokerage that he was obligated by law to take her with the dog, but he refused and ultimately drove off. She immediately called Beck who sent another cab for which she had to wait ten minutes.

The third City witness was Joe MacDonald who testified that he was employed by Beck as a supervisor and is responsible for dealing with complaints. He followed up on the complaint by speaking to the Licensee and instructing him about his obligations under the law in respect to visually impaired persons with guide dogs. The Licensee reacted in an off-handish, virtually rude manner, and dismissed Mr. MacDonald’s concerns. Mr. MacDonald then referred the matter to MLS where it was investigated as previously mentioned by Ms. Kuztelska. Mr. MacDonald added that Beck has a sensitivity course for its drivers to inform them of their obligations in matters such as this.

## **CITY'S SUBMISSION**

The city did not request that the licence be revoked or that the renewal for 2015-2016, if sought, be refused. It did suggest to the Tribunal that, if renewed, the licence should be suspended for 20 days, that the licence be put on probation for a period of three years, and the Licensee be required to enroll in and complete four modules of training provided by MLS, which are referred to below.

## **TRIBUNAL'S DECISION**

The present state of the licence is that it is past its expiry date of June 5, 2015, but continues until the date of this hearing in accordance with the provisions of the Toronto Municipal Code. That will be the end of the matter unless the Licensee requests renewal and pays a renewal fee for 2015-2016.

Based upon the evidence, the Tribunal concluded that the Licensee had not carried on his trade in accordance with law, and that he had definitely violated the bylaw requirement to provide service to a visually impaired person with a guide dog and, in so doing, had infringed upon the rights of a member of the public, namely Ms. Robinson. The Tribunal refers to the Code Section 545-4 (C) (1) (a) (b) and (e), as well as Section 545-5 (D) (1) and (2).

The Tribunal considered that revocation would not be the best remedy in this case. While there was no evidence of the Licensee’s financial situation, the \$2,500.00 fine resulting from the bylaw conviction (which had grown with interest and costs to approximately \$3,500.00) plus a lengthy suspension, would amount to a very significant

July 16, 2015

penalty for most taxi drivers, whose incomes are rarely, if ever, high. While it is not the function of the Tribunal to impose punishment, it does have to impose conditions which emphasize and reflect the seriousness of violations. In addition, it is clear to the Tribunal that the Licensee could benefit from further training in relation to such matters as human rights, tolerance, accessibility and diversity.

## **TRIBUNAL'S DECISION**

The Licensee's taxi driver licence shall be renewed, upon payment of the applicable renewal fee, for the year from June 5, 2015, to June 5, 2016, subject to the following conditions:

Immediately upon renewal, the licence shall be suspended for a period of twenty days, commencing on July 23, 2015;

If renewed, the licence shall be placed on probation for a period of three years until June 5, 2018;

If the licence is renewed, the Licensee shall, within six months of June 5, 2015, at his own expense, attend and complete the following four modules of the taxi driver course provided by MLS:

Disability Awareness,  
Accessibility for Various Disabilities,  
Passenger Assistance,  
Human Rights & Cultural Diversity;

The Licensee, at his own expense, shall provide an up-to-date record of his criminal convictions on each renewal for the next three renewals;

The Licensee, at his own expense, shall provide an up-to-date abstract of his driving record on each renewal for the next three renewals;

The Licensee shall notify Municipal Licensing and Standards in writing within three business days of any new criminal charges or convictions or of any new charges or convictions under a by-law or under the *Highway Traffic Act*. Such notice may be given in any of the following ways:

delivery in person to the licensing office at 850 Coxwell Ave., Toronto, Ontario M4C 5R1;

by ordinary or registered mail to the above address;

by electronic mail to [mlsconditionreporting@toronto.ca](mailto:mlsconditionreporting@toronto.ca); or

by fax at (416) 392-3102.

If there are any new charges or convictions during the probationary period which raise a concern to Municipal Licensing and Standards staff, then this matter, including this

July 16, 2015

report and any updating material, may be brought back before the Toronto Licensing Tribunal for a full hearing.

If the Licensee fails to complete the training as set out above or if he fails to surrender his photo card on the first day of his suspension, then his licence is revoked.

Service of notice of renewal and of this order shall be effected not later than the close of business on July 27, 2015, and shall be effected by courier, ordinary mail and registered mail.

Originally Signed

Lionel Miskin, Chair

Panel Members, Ted Yao and (Hedy) Anna Walsh concurring

*[Reference: Minute No. 107/15]*

**Date Signed:** September 29, 2015