

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of

Hearing: July 13, 2017

Panel: Keith Cooper, Chair

Re: Tanvir Dhaliwal (Report No. 6809)
Applicant for a Vehicle-For-Hire Driver's Licence (Application No. B689180)

Counsel for Municipal Licensing and Standards: Mr. David Gourlay

INTRODUCTION

Mr. Dhaliwal applied for a Vehicle-for-Hire (formerly Taxicab) Driver's Licence on December 7, 2016. As part of the application process, Mr. Dhaliwal submitted a Criminal Background Check from Peel Regional Police, and a Driver Record Abstract from the Ministry of Transportation.

The report indicated that Mr. Dhaliwal had multiple criminal charges and convictions, as well as two convictions and two suspensions of his provincial driver's licence under the Ontario Highway Traffic Act.

MLS reviewed Mr. Dhaliwal's history of charges and convictions and denied issuance of a Vehicle-for-Hire licence. Mr. Dhaliwal appealed that denial and the Toronto Licensing Tribunal held a hearing on this matter on July 13, 2017.

The issue before the Tribunal was whether Mr. Dhaliwal's Vehicle-For-Hire Driver's licence should be issued, suspended, or have conditions placed upon it.

EVIDENCE

Ms. Ogla Kuztelska, Supervisor with MLS, and her staff prepared MLS Report No. 6809. The report relates to Mr. Dhaliwal's history. This 18 page report was admitted in the hearing as Exhibit 1.

Ms. Kuztelska was the first witness for MLS. She testified to the foregoing report and attendant documentation. She testified that it was Mr. Dhaliwal's convictions for Driving under the Influence and failing to stop at the scene of an accident which led to the denial of his application.

Mr. Dhaliwal declined to cross examine Ms. Kuztelska.

Mr. Dhaliwal, in giving his direct evidence, testified that all of his charges stemmed from a single incident on his 19th birthday. He testified that on this date he had been

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celebrating his birthday with family and friends inside his home. He stated that he had consumed some quantity of alcohol. He testified that his home had a shared driveway and at some point he went outside to move his car further up his driveway. He stated that it was slippery, and as he tried to move the car forward it slipped sideways and hit his empty neighbour's car. He stated that he did not think it was serious and returned to the inside of his house.

Mr. Dhaliwal stated that about 15-20 minutes later his neighbor informed him that he had called the police due to the damage to his car.

Under cross examination by Mr. Gourlay, Mr. Dhaliwal stated that he did not think alcohol contributed to the accident, but rather the weather at the time was the principal precipitating factor. He stated that he had not noticed any damage at the time of the incident. He stated that he had moved his car to avoid receiving a parking ticket, but that he did not drive under the influence.

Mr. Dhaliwal stated that he had taken the prescribed course by the Ministry of Transportation concerning driving while drunk in order to regain his licence. He testified that he was now in possession of an A-Z driver's licence and had curtailed his drinking. He stated that he was presently working as a commercial driver, but that his father owned a taxi in Toronto and he hoped to drive it.

SUBMISSIONS

Mr. Gourlay submitted for MLS that Mr. Dhaliwal's licence should not be issued. Mr. Gourlay submitted that the incident in question was relatively recent, and that Mr. Dhaliwal appeared to not accept the fact that alcohol played a factor in the charges against him. He further submitted that the worker showed a lack of contrition with respect to these charges. Mr. Gourlay argued that the Tribunal must balance the public safety concerns outlined in this case against the fact that Mr. Dhaliwal had shown no need to make a living through his Vehicle-for-Hire Driver's Licence.

Mr. Dhaliwal submitted that he was young at the time of the incident, and that he now understood that he should not drink and drive.

ANALYSIS AND CONCLUSIONS

The Tribunal decided that Mr. Dhaliwal's Vehicle-for-Hire Driver's Licence should not be issued.

In reaching my decision, I applied the Tribunal's mandate, set out in part in the Toronto Municipal Code, § 546-8.A(3)(c):

Have regard for the need to balance the protection of the public interest with the need for licensees to make a livelihood.

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Mr. Dhaliwal has not established his need to make a livelihood by driving a taxi, as he testified that he has qualified for, and is engaged in, another job as a commercial driver with an A-Z licence.

On the other hand, the lack of contrition on behalf of Mr. Dhaliwal, and his apparent failure to accept the role that alcohol played in his charges were troubling and I was unable to conclude that the public interest would be protected if I had granted the licence.

The Tribunal has the power to refuse to issue a licence, as set out in § 546-4. A. of the Municipal Code:

An applicant for a licence or for the renewal of a licence, is, subject to the provisions of this chapter, entitled to the licence or renewal, except where:

- (1) The conduct of the applicant affords reasonable grounds to believe that the applicant has not carried on, or will not carry on, the business in accordance with law and with integrity and honesty; or
- (2) There are reasonable grounds to belief that the carrying on of the business by the applicant has resulted, or will result, in a breach of this chapter or any law; or
- (5) The conduct of the applicant or other circumstances afford reasonable grounds to believe that the carrying on of the business by the applicant has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, their health or safety.

Therefore, having regard to the foregoing, I find that I am satisfied that Mr. Dhaliwal's conduct may endanger the public, while he is still able to earn income from his present job as a commercial driver with an A-Z licence.

ORDER

The Tribunal orders that Mr. Dhaliwal's application for a Vehicle-for-Hire Driver's Licence be denied.

Originally Signed

Keith Cooper, Chair

Reference: Minute No. 204/17

Date Signed: December 7, 2017