

## **REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL**

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**Date of**

**Hearing:** November 9, 2017

**Panel:** Moira Calderwood, Chair; Aly N. Alibhai and (Hedy) Anna Walsh,  
Members

**Re:** Ahmed Hussen Ahmed (Report No. 6616)  
Holder of Taxicab Driver's Licence No. D01-3732650; Driver's List No.  
6276

**Counsel for Municipal Licensing and Standards:** Ms Penelope Ma

**Counsel for Applicant:** Ms Patricia Reilly

### **INTRODUCTION**

Mr. Ahmed holds a Toronto Taxicab Driver's Licence. He is also on the Driver's List, that is, the list which Municipal Licensing and Standards (MLS) of the City of Toronto maintains to determine taxi drivers' eligibility to acquire certain Toronto taxicab licences as they become available.

Under the Toronto Municipal Code (the Code), §545-137.3.A.(3), a person's name shall be struck from the Driver's List if he or she ceases to earn a living in the City of Toronto on a full-time basis as a taxi driver. Mr. Ahmed sustained an injury in 2014 which prevented him from working full-time as a taxi driver during that year.

Under §545-137.3.E of the Code, in certain circumstances, the Tribunal may deem that the employment service of a person on the Driver's List has been uninterrupted. Mr. Ahmed wishes the Tribunal to do so in this case.

On November 9, 2017, Mr. Ahmed asked the Tribunal to deem his employment service to have been uninterrupted for the calendar year 2014, because he had been unable to work full-time as a taxi driver for medical reasons.

The Tribunal delivered an oral decision to deem the employment service uninterrupted. These are the written reasons for that decision.

### **CITY'S EVIDENCE**

The parties agreed at the beginning of the hearing that MLS Report 6616 would be admitted as an agreed statement of fact. MLS Report 6616 was marked as Exhibit 1. Exhibit 1 constituted the case for MLS.

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## **APPLICANT'S EVIDENCE**

Mr. Ahmed, via his agent, submitted a package of information which the Tribunal marked as Exhibit 2. Exhibit 2 constituted the case for Mr. Ahmed.

## **SUBMISSIONS**

Mr. Ahmed wished the Tribunal to deem his 2014 service uninterrupted. He submitted that the information in Exhibit 2 shows that the effects of his 2014 injury lasted throughout that year, as evidenced by the fact that he continued to seek medical attention for this injury throughout 2014, and into 2015.

MLS submitted that it did not object to Mr. Ahmed's position that the Tribunal should deem his 2014 service uninterrupted.

The Code, § 545-137, sets out a regulatory scheme for drivers who wish to maintain their position on the Driver's List.

The requirements of the Code relevant to this case are:

### **§ 545-137.2.A**

- A. An applicant on the drivers' list shall cease to continue to be eligible for a Toronto Taxicab Licence and shall be struck off the drivers' list if:
  - (3) ...the applicant ceases to earn a living in the City of Toronto on a full-time basis as a driver...
  
- E. Where an applicant satisfies the Toronto Licensing Tribunal that his or her failure to comply fully... is the result of illness or injury and is entirely beyond the control of the applicant and that the interruption in service is not in all the circumstances excessive, the Toronto Licensing Tribunal may deem the employment service of the applicant to be uninterrupted.

## **DECISION**

It is not disputed that in 2014, Mr. Ahmed ceased to earn his living as a full-time Toronto taxi driver.

The Tribunal can deem that his service has continued, if it is satisfied on three points:

- i. The failure to comply with the Code (i.e., to work full time as a Toronto taxi driver) is the result of illness or injury
- ii. The failure to comply with the Code is entirely beyond the control of the applicant
- iii. The interruption in services is not, in all the circumstances, excessive.

The Tribunal is satisfied that Mr. Ahmed's failure to comply with the Code (i.e., to work full time as a Toronto taxi driver) is the result of illness or injury. Medical reports in the documentary evidence before the Tribunal show that on January 16, 2014, Mr. Ahmed

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sustained a right ankle joint fracture, as a result of a slip-fall. He had surgery (a closed reduction) on January 17, 2014, after which the ankle was immobilized in a cast for four months. Mr. Ahmed followed up at the fracture clinic on January 28, 2014. Entries in the record of family physician, Dr. Abdelsalam, show that Mr. Ahmed attended at the doctor's office with ongoing concerns about the foot on March 21 and September 25, 2014 and indeed on into 2015. Family physician, Dr. Elghamari, provided a doctor's note attesting that Mr. Ahmed was unable to work as a taxi driver in 2014 due to his ankle injury. This evidence is sufficient for us to conclude that the injury caused Mr. Ahmed's inability to work as a taxi driver throughout 2014.

The Tribunal is also satisfied that Mr. Ahmed's failure to comply with the Code is entirely beyond his control. The medical documentation states that the slip-fall was due to ice. Mr. Ahmed's injury was caused by an unfortunate accident, and not through any means within his own control.

The Tribunal is further satisfied that the interruption in services is not excessive. The period in issue is one year. We note that even into 2015, Mr. Ahmed was still seeking medical care for his ankle injury. His one year interruption in services for a fairly severe injury, with long-lasting effects that affected his driving foot, does not appear to be excessive. Therefore, all three requirements of § 545-137.2.E have been met.

Mr. Ahmed's employment service for the period from January to December 2014 is deemed to be uninterrupted.

There was a suggestion at the hearing that the Tribunal return Mr. Ahmed's name to the Drivers' List. We were unable to find, in the governing legislation, any provision that would give the Tribunal the authority to do so. Adding names to the Drivers' List is an administrative function of MLS and the Tribunal does not have the jurisdiction to direct that it do so. That said, we simply note that we are aware of no reason that Mr. Ahmed's name should not be reinstated, but it is not our function, rather it is MLS's, to gather the necessary information and decide what to do with respect to reinstatement.

Originally Signed

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Moira Calderwood, Chair  
Panel Members, Aly N. Alibhai and (Hedy) Anna Walsh concurring

[Reference: Minute No. 314/17]

**Date Signed:** November 23, 2017