

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

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**Date of**

**Hearing:** February 15, 2018

**Panel:** Moira Calderwood, Chair; Aly Alibhai and Keith Cooper, Members

**Re:** Nirosh Jeyanathan (Report No. 6981)  
Applicant for a Tow Truck Driver's Licence (Application No. B734647)

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

### **INTRODUCTION**

In August 2017, Mr. Jeyanathan submitted an application to Municipal Licensing and Standards (MLS) of the City of Toronto for a Tow Truck Driver's Licence. MLS denied the application. Mr. Jeyanathan requested a hearing before the Toronto Licensing Tribunal. The Tribunal held a hearing on this matter on February 15, 2018.

After the hearing, the Tribunal delivered an oral decision denying Mr. Jeyanathan's application for a Tow Truck Driver's Licence. These are the written reasons for that decision.

The issue before the Tribunal was whether Mr. Jeyanathan's application should be granted, given his driving record.

Mr. Jeyanathan appeared on his own behalf. The Tribunal advised him of his right to have legal representation and he chose to proceed without such representation.

### **CITY'S EVIDENCE**

Ms Alice Xu, Manager, Municipal Licensing and Administration Services, MLS, and her MLS colleagues prepared MLS Report No. 6981. The report relates to Mr. Jeyanathan's application for a Tow Truck Driver's Licence. The Tribunal admitted this 60-page report, plus an 11-page updating document, as Exhibit 1 at the hearing.

Ms Xu was the only witness for MLS. She highlighted documentation in the above Exhibit outlining Mr. Jeyanathan's driving history since he first obtained an Ontario driver's licence in 2014. The history includes a number of convictions for speeding and for disobeying signs.

### **APPLICANT'S EVIDENCE**

Mr. Jeyanathan told the Tribunal:

- He is currently a full-time business student at university. He has classes only two days a week and wishes to drive a tow truck part-time, on some of the other days.
- In 2017, he worked driving an interprovincial coach bus, and was entrusted with the lives of the 56 passengers that he transported on the bus.

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- From the end of March until June or July 2017, he worked as an instructor at his father's truck driving school, Jay's Professional Truck Training Centre. The hours for this work are from 7 a.m. to 7 p.m., and he could not continue this work once he started full-time studies. Mr. Jeyanathan provided a copy of paystubs showing pay for this employment in April and May 2017. The Tribunal admitted this information as Exhibit 2.
- In September 2017 when he started university full time, Mr. Jeyanathan stopped driving a coach bus, again due to the fact that the employment, which involved long trips, would have interfered with his studies.
- He is not currently employed. His parents finance his education.
- He is 19 years old and does not have a spouse or dependents.
- Mr. Jeyanathan also provided a copy of his provincial driver's abstract, dated January 4, 2018. The Tribunal marked this document as Exhibit 3. The abstract showed that Mr. Jeyanathan had 6 demerit points.

Mr. Jeyanathan called his father, Mr. Pootappillai Jeyanathan, as a witness. He testified that Mr. Jeyanathan was employed at Jay's Professional Truck Training Centre teaching in the yard, and that he fulfilled his duties responsibly.

## **SUBMISSIONS**

Ms Ma submitted that the Tribunal should not issue a Tow Truck Driver's Licence to Mr. Jeyanathan. She stated that Mr. Jeyanathan's conduct affords reasonable grounds to believe that he has not carried on, or will not carry on, the business of a tow truck driver in accordance with law and with integrity and honesty; or that the carrying on of the business has resulted, or will result, in a breach of the By-law or any law; or that his carrying on business has infringed, or would infringe, the rights of other members of the public, or has endangered, or would endanger, their health or safety, all as set out in § 545-4.C.(1) of the *Municipal Code*.

Ms Ma noted that in the three years since he has been licensed to drive, Mr. Jeyanathan has accumulated a concerning number of convictions, showing patterns of speeding and of disobeying signs. According to Ms Ma, granting a Tow Truck Driver's Licence with conditions would not operate to protect public safety in this case, given that Mr. Jeyanathan apparently did not learn from having his provincial driver's licence suspended, as he went on to incur further charges after each suspension of his licence.

Ms Ma submitted that Mr. Jeyanathan has not shown a need to make a livelihood, given that he could work driving coach buses or work for his father in the summer, between school terms.

In his submission, Mr. Jeyanathan stated that the Tribunal should grant him a Tow Truck Driver's Licence with conditions and with some months of probation, progressing to a full licence. Mr. Jeyanathan stated that there are no concerns about protection of the public, given that he drove coach buses in the past, with responsibility for 56

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passengers. He noted that a coach bus is longer than a tow truck, and that he safely drove the former vehicle and did not incur any charges while doing so.

## **DECISION**

The Tribunal denied Mr. Jeyanathan's application for a Tow Truck Driver's Licence.

In reaching our decision, we applied the Tribunal's mandate, set out in part in the *Toronto Municipal Code*, § 545-3.B.(3)(c):

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

We were not of the view that Mr. Jeyanathan had established a strong enough case for his need to make a livelihood through the licensed activity. Mr. Jeyanathan has the financial support of his parents for his university education. His business education, once completed, should open employment prospects for him in the future. While we understand that he would like to make some extra money by driving a tow truck, this was not a case where it appeared to us that the applicant had few or no other employment options, or a case where the applicant had dependents to support.

The protection of the public interest was the key issue in this hearing. Mr. Jeyanathan's driving record raised serious concerns for us. We noted the following chronology, by combining the documentary record and the testimony given at the hearing:

- In 2014:
  - August 5, 2014: Mr. Jeyanathan was first licensed to drive.
- In 2015:
  - July, August and September 2015: Mr. Jeyanathan was charged with (and later convicted of) speeding.
  - December 2015: Mr. Jeyanathan was charged with (and later convicted of) disobeying a sign.
- In 2016:
  - January 2016: Mr. Jeyanathan was charged with (and later convicted of) speeding 149 KPH in a 100 KPH zone. Mr. Jeyanathan acknowledged that his actual speed was over 150 KPH. Mr. Jeyanathan's driver's licence was administratively suspended from January 26 to February 2, 2016, for contest/stunt driving.
  - March 2016: Mr. Jeyanathan was charged with (and later convicted of) an offence related to improper stop and signal in an intersection.
  - April and June 2016: Mr. Jeyanathan was charged with (and later convicted of) disobeying a sign on each of these occasions.
  - August 2016: Mr. Jeyanathan was charged with (and later convicted of) improper use of turn signals.
  - October 2016: Mr. Jeyanathan was charged with (and later convicted of) unsafe turn/lane change, fail to signal.

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- December 25, 2016: Mr. Jeyanathan's licence was again suspended, this time until January 29, 2017, for "Demerit points – Novice escalating suspension."
- In 2017:
  - May 2017: Mr. Jeyanathan was charged with (and later convicted of) speeding.
  - July 2017: Mr. Jeyanathan was charged with speeding. The trial of this charge has not yet occurred.

In our view, this record shows undesirable driving patterns related to speeding and to disobeying signs. The fact that Mr. Jeyanathan has accumulated 12 convictions (plus one further charge) in just over three years as a licensed driver is troubling, particularly in a person who does not own a car and drives only occasionally, when someone else's vehicle is available. The conviction for driving 49 KPH over the posted limit is very concerning. We note that each time Mr. Jeyanathan's licence was reinstated after a suspension, he went on to incur further charges, leading us to wonder whether he had truly learned his lesson.

We were struck that when Ms Ma asked Mr. Jeyanathan for an explanation of his pattern of speeding, he said he was sometimes in a rush. With respect to convictions for disobeying signs, he first said he had "no comment" and then added that this was a "common, simple mistake." None of these answers, in our view, showed insight into why these bad driving habits might be problematic, or might raise public safety concerns, in a person seeking a licence to drive a tow truck. We further noted that Mr. Jeyanathan did not express any remorse over the conduct for which he was convicted. He did say he is more mature than when the events occurred. While the lack of remorse is not necessarily an aggravating factor, some evidence of remorse could have helped to show rehabilitation and much less likelihood of reoffending.

While it is true that Mr. Jeyanathan's driving has recently started to show some improvement, as he has incurred no further charges since July 2017, that is a period of only 7 months, and we are not confident that we can extrapolate from this short trouble-free period that Mr. Jeyanathan's driving habits have permanently improved. In our view, it is just too soon to tell.

We are satisfied therefore that there are reasonable grounds for the belief that public safety may be endangered if Mr. Jeyanathan were licensed to drive a Tow Truck, and for that reason, we denied his application for a Tow Truck Driver's Licence.

Originally Signed

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Moira Calderwood, Chair  
Panel Members, Aly Alibhai and Keith Cooper concurring

Reference: Minute No. 35/18

**Date Signed:** March 11, 2018