

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of

Hearing: December 6, 2018

Panel: Anu Bakshi, Hearing Panel Chair;
Victoria Romero and Moira Calderwood, Members

Re: Abdul Baqi Hadi (Report No. 7025)
Applicant for a Tow Truck Driver's Licence (Application No. B825367)

Counsel for Municipal Licensing and Standards: Brennagh Smith

Counsel for Applicant: Unrepresented

INTRODUCTION

Mr. Hadi submitted a Tow Truck Driver's Licence application on April 19, 2018. With his application, he submitted a three-year driver's record from the Ministry of Transportation dated April 11, 2018 and a police background check from York Regional Police dated April 18, 2018. Municipal Licensing and Standards (MLS) of the City of Toronto reviewed the application including Mr. Hadi's convictions under the Criminal Code of Canada, and denied Mr. Hadi's application for a Tow Truck Driver's Licence on April 20, 2018. Mr. Hadi appealed that denial and the Toronto Licensing Tribunal held a hearing on the matter on December 6, 2018. Mr. Hadi chose to represent himself in this matter.

The issue before the Tribunal is whether or not a Tow Truck Driver's Licence should be issued, denied or have conditions placed on it.

After the hearing, the Tribunal gave an oral decision to deny Mr. Hadi's application. These are the written reasons for that decision.

CITY'S EVIDENCE

Ms Andrea DiMatteo, Acting Supervisor, Municipal Licensing and Standards testified on behalf of MLS.

Ms DiMatteo, referring to MLS Report 7025 (Report), provided a background of Mr. Hadi's history of charges and convictions under the Municipal Code, the Highway Traffic Act, the Criminal Code of Canada and the Controlled Drug and Substances Act. The Report and updates were marked as Exhibit 1.

Ms DiMatteo highlighted documentation in Exhibit 1 showing that Mr. Hadi was charged with or convicted of at least 84 Criminal Code or Controlled Drug and Substances offences from 2003 to 2014. The Crown brief for multiple charges and convictions relating to credit card fraud was outlined. It showed that on December 21, 2010, Mr. Hadi, with others,

December 6, 2018

purchased multiple items at multiple gas stations and stores using numerous credit cards that did not belong to him.

Ms DiMatteo pointed to documentation in Exhibit 1 that Mr. Hadi also failed to comply with bail conditions. The Crown brief read that when the police approached Mr. Hadi on October 2, 2014, Mr. Hadi repeatedly gave a false name to the police officer, refused to provide any identification and was unlawfully in possession of prepaid credit cards. At that time, he was bound to a probation order to keep the peace, be of good behavior and not to possess any credit cards with a magnetic strip. Thereafter, Mr. Hadi was convicted of failing to comply with bail conditions.

Exhibit 1 also contained documents indicating that there is an outstanding warrant for Mr. Hadi's arrest relating to out of province credit card fraud charges.

APPLICANT'S EVIDENCE

Mr. Hadi testified that he is ashamed of his past record. For more than three years he has not been in any trouble. Last year, his wife and father died. Now, he must take care of and support his daughter and his mother. His friend offered him a job as a tow truck driver if his tow truck driver licence is approved. He is not working as he was trying to get over the grief of the passing of his wife and father. He knows there are outstanding charges out of province, but he does not have the money or time to deal with them considering his family responsibilities and that he is not working.

On cross-examination, Mr. Hadi testified that he has Grade 11 education and his work history included restaurant work and construction. He has not applied for any jobs even though he wants to start working. He admitted that he was convicted of aggravated assault in 2005 and theft under \$5000 in 2007. Mr. Hadi explained that he and his former common law spouse had problems and arguments, and he was charged with multiple criminal offences relating to allegations of taking her cell phone, making harassing calls to her and assaulting her.

Mr. Hadi admitted to using and possessing stolen credit cards on numerous occasions. He also admitted that he did not comply with bail conditions and gave the police a fake name on October 2, 2014. As a result, he admitted to the conviction of obstructing a peace officer and failing to comply with a probation order on October 8, 2014.

Mr. Hadi testified that he never underwent any sort of rehabilitation for fraud or counseling for grief because he does not need it. He admitted that as a result of the out of province fraud charges, there are bail conditions requiring Mr. Hadi not to be in possession of any internet or cable device or any credit, debit or identification cards except in his own name. He also admitted that he has not complied with probation orders in the past.

SUBMISSIONS

Ms Smith asked the Tribunal to deny Mr. Hadi's application for a Tow Truck Driver's Licence as there are reasonable grounds to believe that Mr. Hadi has not conducted himself in accordance with the law and with integrity and honesty. This is Mr. Hadi's first application for a Tow Truck Driver's Licence with the City of Toronto and, as set out in

December 6, 2018

Exhibit 1, Mr. Hadi has a long and serious history of criminal convictions, including convictions for credit card fraud. In addition, Mr. Hadi has a history of failing to comply with recognizance.

Although the criminal charges and convictions related to 2003 to 2014, Ms. Smith submitted that sufficient time has not passed to warrant issuing a licence at this time. Currently, there are out of province fraud charges that are outstanding and a warrant outstanding for Mr. Hadi's arrest.

Ms Smith noted a concerning pattern of sophisticated credit card fraud. She pointed out as a tow truck driver, Mr. Hadi would be in possession of credit cards and he has not received any counselling or put any plan in place of how to avoid the temptation to use the credit card data of others for an unlawful purpose. The public would be at risk if Mr. Hadi was issued a Tow Truck Driver's Licence.

Mr. Hadi submitted that he is trying to turn his life around. He has not been in trouble for over three years. He must concentrate on caring and providing for his young daughter and mother. He feels ashamed about his past and he is trying to stay out of trouble. He no longer has the same group of friends and he is trying to concentrate on providing a better life for his family. His driver's record is clean. Mr. Hadi is not working at this time and has been waiting for the Tribunal's decision.

DECISION

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

In reaching our decision, the Tribunal considered our 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.

The Tribunal concluded that Mr. Hadi's longstanding history, pattern of credit card fraud, non-compliance with the law, and in particular, the outstanding warrant for his arrest for out of province credit card charges, compelled the Tribunal to place greater emphasis on the need to protect the public interest by not granting a Tow Truck Driver's Licence at this time.

In these serious circumstances, without evidence of rehabilitation or anything other than the mere passage of time, there are reasonable grounds to believe that the rights of the public would be infringed or that the safety of the public would be endangered, if we granted Mr. Hadi a Tow Truck Driver's Licence. Handling credit or debit card data is an integral part of a tow truck driver's duties.

Mr. Hadi appears to be on the path to putting his past behind him and being a law abiding citizen. He has additional responsibilities to his family. This is Mr. Hadi's first application for a Tow Truck Driver's Licence. He did not offer any testimony as to whether he has experience in the towing industry. He did not provide any information to suggest that he already drives a tow truck in other jurisdictions, and although he stated he has an offer of

December 6, 2018

tow truck work from a friend if the Tribunal grants the licence, he did not provide any letter or witness to support this statement or to provide any details. He has a history of working in a restaurant and construction. He may be able to earn a livelihood in those areas, but he chose not to apply for any jobs in the last year, while awaiting the outcome of this application.

We considered whether the public could adequately be protected in this case by the imposition of conditions. We concluded that it could not, given that Mr. Hadi's record includes convictions for breach of court-imposed bail conditions. We were not confident that he would comply with conditions imposed by the Tribunal.

In the future, Mr. Hadi may decide to make another application for a Tow Truck Driver's Licence in the City of Toronto. He would be well advised to continue on his current path of compliance with the law and to come before the Tribunal with a record which serves to clearly establish that he has conducted himself with honesty and integrity and in accordance with the law, and that he has completed concrete steps to rehabilitate himself and has dealt with any outstanding criminal charges or arrest warrants.

Originally Signed

Anu Bakshi, Hearing Panel Chair

Panel Members, Victoria Romero and Moira Calderwood concurring.

Reference: Minute No. 225/18

Date Signed: January 26, 2019