

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of Hearing: May 30, 2019

Panel: Mary Lee, Panel Chair;
Edgar-Andre Montigny, Panel Member

Re: Masood Hejran (Report No. 7171)
Applicant for a Tow Truck Driver's Licence (Application No. B861628)

Counsel for Municipal Licensing and Standards: Graham Thomson

Counsel for Applicant: Unrepresented

SUMMARY OF DECISIONS

On August 28, 2018, Masood Hejran (the Applicant) applied for a Tow Truck Driver's Licence. Municipal Licensing and Standards (MLS) denied the issuance of a licence. The Applicant requested a hearing before the Toronto Licensing Tribunal to determine whether a licence should be issued.

The matter proceeded to a hearing on May 30, 2019. After considering and hearing the evidence and submissions of the parties, the Tribunal decided to refuse a Tow Truck Driver's Licence to the Applicant.

RELEVANT LAW AND MAIN ISSUE

1. Section 545-4. C Grounds for denial of licence.
 - A. 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:
 - (a) 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 the law and with integrity and honesty; or
 - (b) There are reasonable grounds to believe that the carrying on of the business by the applicant has resulted, or will result, in a breach of this chapter or any law;
 - (c) [...]
 - (d) [...]
 - (e) The conduct of the applicant or other circumstances afford reasonable grounds for belief that the carrying on of the business by the applicant has infringed, or would infringe, the right other members of the public, or has endangered, or would endanger, their health and safety.

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2. The main issue before the Tribunal is whether the issuance of a Tow Truck Driver's Licence to the Applicant is in the public interest.

MLS EVIDENCE

Mr. Thompson called one witness.

Ms Andrea Di Matteo, MLS Supervisor, was affirmed and testified as follows:

3. Ms Di Matteo is familiar with MLS Report No. 7171, plus ICON Screen prints dated April 15, April 30 and a three Year Drivers Abstract dated May 29, all of which were entered in the hearing as Exhibit 1 ("the Report").
4. Ms Di Matteo, provided a background of Mr. Hejran's history of charges and convictions under the Highway Traffic Act, the Criminal Code of Canada and the Controlled Drug and Substances Act.
5. The Applicant did not cross-examine Ms. Di Matteo.

APPLICANT'S EVIDENCE

6. The Applicant was affirmed and testified.
7. In testimony, and in cross-examination, the Applicant provided information about his driving and criminal records and his personal circumstances, including the following:
 - i. Mr. Hejran stated that he is 30 years old and lives at home with his parents and siblings. He is not married and his two children do not live with him. He stated that he does not pay child or spousal support. He does however pay some expenses for his children like formula and diapers when he can. He has a high school education. He is currently unemployed. He did work as a bank teller in the past. He cannot do that any longer because of his criminal record. Mr. Hejran stated that he has not worked since 2012 because he was constantly in custody. He has helped his brother in the past with his camera business. He stated that he cannot continue helping his brother because of his probation limitations.
 - ii. Mr. Hejran testified that most of the criminal charges were from a long time ago in 2012 and 2013 when he was younger. He highlighted page 17 of the Report 7171 to show that several criminal charges were withdrawn. He also pointed to page 16 of the Report 7171 to show that he was found not guilty of the criminal offences listed. The only charge he was found guilty of was on page 15 of the Report 7171 namely fail to comply and obstruct police officer. He further testified that he was not found guilty of any other charges. It was a long time ago and he regrets what happened in the past. He testified that he is looking for an opportunity to be hired and he has been seeking a Tow Truck Driver's Licence since 2017. Mr. Hejran further stated that most of the driving offences against him were from 3 or 4 years ago. The last offence was in 2017. He testified that for the last 2 years, he has a good driving record. He stated that he was unprepared for his court case and he would have obtained a lawyer if he was more financially secure. He stated that he wants to work, and he doesn't want to

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be involved in anything criminal. He further stated that someone wants to hire him. He is unemployed and wants to get on with his life. He emphasized again that his criminal record is nothing serious and that the majority of the charges are fail to comply and breaching probation. Other than that, the Applicant stated that he is innocent.

ANALYSIS

8. This is Mr. Hejran's first appearance before the Tribunal.
9. The Tribunal accepts MLS's submission that there are reasonable grounds to believe that Mr. Hejran would not carry on the business of being a Tow Truck Driver in accordance with the law in a manner that would ensure and protect public health and safety. There is ample evidence set out in Report 7171 (Exhibit 1) to show that Mr. Hejran has repeated HTA traffic violations, as well as criminal code convictions and recent matters still before the courts.
10. The Tribunal also accepts MLS's submission that based on the Applicant's past conduct, he would not carry on his business in accordance with the law and with integrity and honesty and would endanger the public.
11. While the Applicant pointed out that a number of charges have been withdrawn, there are still a sufficient number of convictions on his record that create a serious concern about the impact of his conduct on public safety and his ability to operate his business in accordance with the Chapter 545.4 c.
12. The Tribunal had further concern about the Mr. Hejran's lack of concern about the seriousness of his lengthy criminal record and highway traffic violations. The Tribunal accepts MLS's submission that as a Tow Truck Driver, he would have unsupervised contact with vulnerable persons.

DECISION

13. The Tribunal denied Mr. Hejran's application for a Tow Truck Driver's Licence.
14. In reaching our decision, the Tribunal considered its 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.

After considering the evidence before us, including Mr. Hejran's repeated HTA traffic violations, as well as criminal code convictions and recent matters still before the courts, his longstanding history gives us reasonable grounds to believe that giving him a licence would not be in the public's interest. In this case, the public interest outweighs Mr. Hejran's interest in earning a living as a Tow Truck Driver.

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15. While Mr. Hejran testified that he wants to earn a living and not be involved in criminal activity, there was no evidence of rehabilitation on his part. 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 the Tribunal granted Mr. Hejran a Tow Truck Driver's Licence.
16. Besides two weeks of training, Mr. Hejran has no experience in the towing industry.
17. The Tribunal considered whether the public could adequately be protected in this case by the imposition of conditions. The Tribunal concluded that it could not, given that Mr. Hejran's record includes convictions for fail to comply and for breach of court-imposed bail conditions. The hearing panel was not confident that he would comply with conditions imposed by the Tribunal.
18. In the future, should Mr. Hejran decide to make another application for a Tow Truck Driver's Licence in the City of Toronto, he would be well advised to comply 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.

Originally Signed

Mary Lee, Panel Chair
Panel Member, Edgar-Andre Montigny concurring

Reference: Minute No. 96/19

Date Signed: July 2, 2019