

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of

Hearing: January 27, 2022 (Videoconference Hearing)

Panel: Verlyn Francis, Panel Chair;
Mary Lee and Paula Turtle, Members

Re: Muhammad Ahmad Iqbal (Report No. 6311)
Applicant for the Renewal of Vehicle-For-Hire Driver's Licence No. D01-3953893

Counsel for Municipal Licensing and Standards: Jennifer Boyczuk

Counsel for Applicant: Unrepresented

INTRODUCTION

Taxicab Driver's Licence No. D01-3953893 was issued to Mr. Muhammad Ahmad Iqbal ("**Mr. Iqbal**") on October 7, 2009 with an expiry date of October 7, 2012. Mr. Iqbal requested a renewal of the licence on August 29, 2012. By letter dated October 29, 2012, Municipal Licensing and Standards ("**MLS**") denied the renewal of the licence because of multiple charges and convictions incurred by Mr. Iqbal under the *Highway Traffic Act* ("**HTA**"), *City of Toronto Municipal Code* ("**Municipal Code**"), *Compulsory Automobile Insurance Act*, and the *Criminal Code of Canada* ("**Criminal Code**"). On November 28, 2012, Mr. Iqbal requested a hearing before the Toronto Licensing Tribunal ("**Tribunal**"). The matter was referred to the Tribunal as Report No. 5986 on May 8, 2013 and was heard on June 20, 2013. At that time, MLS and Mr. Iqbal entered into a joint resolution that was accepted and endorsed by the Tribunal. One of the conditions of the joint resolution was that Mr. Iqbal's licence would be on probation for three years commencing June 20, 2013.

MLS wrote to Mr. Iqbal on September 30, 2014 alleging breach of a condition of the June 20, 2013 resolution which gave reasonable grounds to believe that he is not entitled to the issuance of a licence. On October 24, 2014, Mr. Iqbal requested a hearing before the Tribunal and indicated he would be out of the country until February 2015. The matter was referred to the Tribunal as Report No. 6311 on May 9, 2016. The parties entered into a joint resolution on December 15, 2016 suspending Mr. Iqbal's licence on an interim basis pending the outcome of six criminal charges. That interim suspension remains in effect at the time of this hearing.

The question before the Tribunal is whether Mr. Iqbal's Vehicle-For-Hire Driver's Licence should be renewed, suspended, revoked or have further conditions placed on it.

After the hearing, the Tribunal reserved its decision. For the reasons set out below, the Tribunal has decided that the Vehicle-for-Hire Driver's licence of Mr. Iqbal should be revoked.

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CITY'S EVIDENCE

Jamil Elannan, supervisor of MLS, was the only witness called for the City. In his testimony, Mr. Elannan referred to Report 6311; Update dated December 2, 2021; Toronto Police Service (TPS) General Occurrence Report No. G2020-2305936; TPS Ticket No. TP 7490358ZPO; and TPS Ticket No. TP 7490365ZPO which were entered as Exhibits 1 to 5 respectively.

Mr. Elannan testified that he is familiar with the Report 6311 which was created by MLS staff using the Attorney General's Integrated Court Offences Network (ICON), drivers' abstracts, materials gathered from freedom of information requests to the police, and information from the courts (**Exhibit 1**). The other exhibits were also created in the same manner.

Mr. Iqbal was first licensed as a taxicab driver in Toronto on October 7, 2009 with Taxicab Driver's Licence No. D01-3953893. Mr. Iqbal's first referral to the Tribunal in 2013 was Report No. 5986. An extract of the Tribunal Minutes 173/13 of June 20, 2013 shows that there was a joint resolution between Mr. Iqbal and MLS with six conditions summarized as follows:

- (1) Mr. Iqbal was to provide proof of payment of any outstanding fines;
- (2) his licence was suspended for five days;
- (3) he would be under probation for three years commencing June 20, 2013;
- (4) prior to each of the next three renewals of the licence, Mr. Iqbal was to provide to MLS an updated criminal and driving records abstract at his own expense;
- (5) if he incurred any new charges or convictions under the *Toronto Municipal Code* ("Code"), the *Highway Traffic Act* ("HTA") or the *Criminal Code of Canada* ("Criminal Code"), Mr. Iqbal was to advise MLS in writing within three business days; and
- (6) if during the probationary period, MLS had concerns with any new charges or convictions, those matters and the report were to be brought back with updating material to the Tribunal for a full hearing.

As part of his request for renewal of his licence from MLS, Mr. Iqbal submitted his renewal payment on August 25, 2014, along with a driving record abstract from the Ministry of Transportation dated July 29, 2014. On September 8, 2014, he also submitted a record of conviction from York Regional Police dated September 6, 2014. Based on this information and their investigation, MLS alleged that Mr. Iqbal breached condition 5 of the June 2013 probation because he did not notify MLS of new charges and convictions under HTA in writing within the specified amount of time.

In a letter dated September 30, 2014 MLS refused to renew Mr. Iqbal's licence and he submitted a request for hearing dated October 24, 2014. MLS then compiled the report before us, Report 6311, with information retrieved from ICON and other sources.

Under the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), MLS wrote to TPS on April 8, 2016 requesting information on criminal charges against Mr. Iqbal as disclosed in ICON. TPS released a General Occurrence Report GO# 2015-1838840 to MLS on June 6, 2016 showing six Criminal Code charges against Mr. Iqbal as a result of incidents alleged to have occurred on October 26, 2015.

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At page 264 of the Report, MLS compiled an updated chart showing the charges and convictions which it alleges were not reported by Mr. Iqbal. Item 1 is an HTA charge of red light fail to stop on November 23, 2015; Item 2 are six Criminal Code charges of forcible confinement, assault with weapon, possession of weapon dangerous, intimidation, break, enter and commit, and theft under \$5,000 on October 26, 2015; and conviction under HTA for unsafe turn/lane change fail to signal on July 29, 2015.

On May 9, 2016, MLS brought Report 6311 to the Tribunal to determine whether Mr. Iqbal's licence should be renewed, suspended, revoked or have conditions placed on it. There was an unopposed adjournment request on September 15, 2016 by Mr. Iqbal so that he could retain counsel and receive a complete copy of the initial Report. On resumption of the hearing on November 10, 2016, Mr. Iqbal requested another adjournment to retain a lawyer and the hearing was adjourned to December 15, 2016 peremptory to Mr. Iqbal.

The Tribunal's Minute No. 210 of hearing on December 15, 2016 indicate that Mr. Iqbal had legal representation and the parties presented a joint proposed resolution which was accepted and endorsed by the Tribunal. The Resolution which was signed by Mr. Iqbal, his legal representative, and MLS. The parties' agreement can be summarized as follows:

1. Mr. Iqbal's vehicle for hire licence No. D01-3953893 shall be immediately suspended on an interim basis pending full and final resolution of the six criminal charges referred to in the TPS General Occurrence No. 2015-1838840.
2. By 4:00 pm on December 15, 2016, Mr. Iqbal shall submit to MLS his vehicle for hire/taxicab driver photo card; his vehicle for hire/taxicab driver's licence (blue card); and any deemed to continue letter from MLS within his possession. If no such identification remains in Mr. Iqbal's possession, then he was to complete and submit to MLS by 4:00 p.m. on that date a loss of licence form and provide the police occurrence number reporting the loss/theft of same.
3. During the interim suspension, Mr. Iqbal was not to carry out any activities as a vehicle for hire driver (e.g. taxicab or limousine driver) in the City of Toronto.
4. The matter was to return to be spoken to before the Tribunal on July 20, 2017 at which time either party could make submissions as to the continued appropriateness of the interim suspension, and may rely on any further materials as appropriate.
5. Mr. Iqbal acknowledged that he had the benefit of independent legal advice in respect of this matter and the terms of the Proposed Resolution.

On December 15, 2016, Mr. Iqbal signed a declaration indicating he had lost his taxicab driver's photo card.

The matter was adjourned on July 20, 2017 to September 21, 2017, then to September 21, 2017 *sine die* with the interim suspension of December 15, 2016 to continue. The matter was further adjourned *sine die* on October 17, 2019 to December 19, 2019 with the interim suspension imposed on December 15, 2016 to remain in effect.

MLS submitted to the Tribunal an update dated December 1, 2021 (**Exhibit 2**). Page 11 of the update is a chart which was created by MLS staff using the ICON system. It shows three new charges on December 6, 2020 under the Criminal Code: fail to comply

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release order, and two charges of mischief under \$5,000. There are five charges under the HTA and the Municipal Code in a taxicab: disobey stop sign, April 24, 2021; amber light – fail to stop, and taxicab operator no licence, May 1, 2021; pass off roadway, September 3, 2021. These occurrences were in Taxicab 1390. The disobey sign charge of February 9, 2019 in Taxicab 1541 was withdrawn on February 24, 2020. On March 13, 2019 he was convicted of a charge laid on January 27, 2019 under the *Trespass to Property Act* for enter premises when entry prohibited.

MLS staff are able to determine if charges relate to a certain taxicab because its licensing system is linked to ICON and, if there is an item in ICON, MLS can see the plate associated with it. Page 11 of the update, line 5, Taxicab 1541 is owned by Khalid Chadha associated with Maple Leaf Taxicab. Page 28 is the ICON information relating to the charge at line 5. This incident happened at Bloor Street East and northbound St. Paul's in Toronto.

Records from the TPS filed with the Tribunal on 13 January 2022 is TPS General Occurrence Report No. G2020-2305936 for the three criminal charges laid on December 6, 2020 (**Exhibit 3**). This document was created by the investigating TPS officer, and was produced in response to a Freedom of Information request from MLS. This general occurrence report relates to the criminal charges of mischief under and fail to comply release order.

Page 2, Background, sets out that it was a motor vehicle and domestic incident involving his partner of 10 years. The report states that Mr. Iqbal "is a cab driver for Abel Atlantic Taxi and his vehicle is a white Toyota Corolla". Page 3 of the report indicates the white Toyota Corolla was not in the parking lot..." of the location when the police responded to the call. However, further down the page the report states that the officers were told Mr. Iqbal may have gone to another address. The police attended at that address and observed three vehicles parked in the driveway. One was a white Toyota Corolla bearing Ontario marker CDZL 815 with a cab light on top reading Maple Leaf and taxi licence 1390. The other two vehicles were covered in frost but the white Toyota Corolla had no frost on the windows or body of the car. Taxi licence 1390 is operated by Royal Taxi which is not associated with Maple Leaf Taxi. It is with Diamond Taxi.

Page 11 of Exhibit 2, line 4 of the HTA chart lists charges against Mr. Iqbal. The list indicates that the charge for disobey stop sign related to Taxi 1390, and the same Taxicab is mentioned in line 1, 2 and 3. Line 4 of page 11 relates to page 26, an ICON printout that correlates to the HTA charges regarding an incident which happened on Amiens Road at Kingston Road in Toronto on 24 April 2021.

Page 22 of Exhibit 2 is an ICON screen print for an offence under chapter 546-2A(3) relates to page 11, line 2, taxicab operator no licence, for an incident which occurred at Lawrence Avenue East at Overture Road in Toronto on May 1, 2021.

Page 20 of Exhibit 2 is an ICON screen print showing a charge under the HTA for pass off roadway which relates to line 1 of the HTA charges and convictions for an incident which occurred on Hwy 401 at Neilson Avenue on 3 September 2021.

Also in the zip file is TPS ticket offence hard copy, for Ticket No. TP 7490358ZPO issued by TPS on May 1, 2021. This document was created by TPS and this relates to a

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charge under s. 144(15) which is amber light - fail to stop (**Exhibit 4**). In the same zip file, is a TPS hard copy for a ticket No. TP 7490365ZPO issued by TPS to Mr. Iqbal who was identified as the driver. The document was obtained by filing a freedom of Info request (**Exhibit 5**). This relates to the charge of taxicab operator no licence. On page 3, it indicates that this relates to an incident on May 1, 2021. While heading eastbound on Lawrence, the officer observed a white Toyota Corolla sedan in lane 2 heading westbound on Lawrence failing to stop for a red light at Overture Road. The sedan had enough room to come to a full stop for the amber light but crossed over white line. The driver identified himself with a valid photo Ontario driver's licence and provided valid insurance. The male driver was operating the vehicle as a taxicab with taxicab licence visible on the back #1390. The driver was not able to produce a taxicab licence in his name and was charged with "taxicab operator no licence".

Mr. Iqbal's 2015 criminal charges are still pending. The witness believed there was an appeal filed at some point.

Mr. Iqbal had no questions for the witness.

APPLICANT'S EVIDENCE

Mr. Iqbal did not adduce any evidence in this hearing.

SUBMISSIONS

MLS Submissions

At the outset of the hearing, Ms. Boyczuk notified the Tribunal that she would not be relying 2015 criminal charges against Mr. Iqbal since those matters are still before the courts. Those charges were submitted to establish the context for why Mr. Iqbal is before the Tribunal.

Ms. Boyczuk submits that, pursuant to §546-9 C, Mr. Iqbal's licence should be revoked because he was operating a taxicab without a licence. She submits that the evidence establishes reasonable grounds for belief that Mr. Iqbal has not carried on, or will not carry on his trade, business or occupation in accordance with law and with integrity and honesty.

To support her submission, Ms. Boyczuk directed the Tribunal to evidence that Mr. Iqbal entered into the resolution on December 15, 2016 where he agreed to the immediate suspension of his taxicab driver's licence on an interim basis pending the full and final resolution of the six criminal charges that he was facing at that time. That interim suspension was confirmed by the Tribunal in Mr. Iqbal's presence on several occasions, and it remains in place. Despite knowing this, Mr. Iqbal operated a taxi on several occasions, as shown in the various TPS reports. This conclusion is reasonable, Ms. Boyczuk submits, since Mr. Iqbal was charged with offences under the HTA on at least three occasions in 2021 while driving a white Toyota Corolla bearing taxicab plate 1390. A vehicle of the same description was also found outside his residence in December 2020 when the police investigated an incident and laid three charges under the Criminal Code.

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On the issue of balancing Mr. Iqbal's right to earn a living, Ms. Boyczuk submits that his licence was suspended for five years and he should not have been making a living from driving a taxicab in Toronto.

If the Tribunal finds there is insufficient evidence to revoke Mr. Iqbal's Vehicle-for-Hire Driver's licence, MLS submits, in the alternative, that the interim suspension should remain in place until the full and final resolution of the 2015 criminal charges. The matter would then be brought back before the Tribunal.

Applicant's Submissions

Mr. Iqbal submitted that, as Ms. Boyczuk indicated, he has to wait until his criminal charges are dealt with and he is okay with that.

DECISION

In order to set out its reasons for decision in this matter, it is necessary for the Tribunal to set out a very abbreviated chronology of how this matter comes before us.

Mr. Iqbal was first licensed as a taxicab driver in Toronto on October 7, 2009. When he made his application for renewal in August 2012, MLS conducted investigations which revealed that Mr. Iqbal had incurred numerous charges and convictions under the HTA, the Municipal Code and *Compulsory Automobile Insurance Act*. The matter was referred to the Tribunal as Report No. 5986 and, on June 20, 2013, the parties entered into a resolution which was accepted by the Tribunal. A condition of that resolution was that the licence was placed on probation for three years to commence on June 20, 2013, and Mr. Iqbal would notify MLS of any charges or convictions in writing within three business days.

When Mr. Iqbal submitted his application for renewal in August 2014, MLS conducted its investigation and alleged that he did not notify MLS in writing within three days of charges and convictions that he had incurred while on probation. Among the charges were six criminal offences which were laid by the TPS on October 26, 2015. In May 2016, MLS referred the matter to the Tribunal as Report 6311 and the parties again entered into a resolution dated December 15, 2016 which the Tribunal accepted. One of the conditions of this resolution was that Mr. Iqbal's licence be suspended on an interim basis pending full and final resolution of the six criminal charges.

The issue before the Tribunal is whether Mr. Iqbal breached one of the conditions of the Resolution dated December 15, 2016 and, if he did, whether his licence should be renewed or revoked.

Chapter 545-4 C. of the *Toronto Municipal Code* provides that an applicant for a licence is entitled to be issued a licence or renewal, except where:

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- (1) The conduct of the applicant affords reasonable grounds to believe that the applicant has not carried on, or will not carry on, his or her trade, business or occupation in accordance with law and with integrity and honesty; or
- (2) There are reasonable grounds to believe that the carrying on of the trade, business or occupation by the applicant has resulted, or will result, in a breach of this chapter or any other 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, the health or safety of other members of the public.

The Municipal Code requires that MLS prove the reasons to deny or revoke a licence. The standard of proof required is “reasonable grounds to believe” that the applicant has acted or will act in a manner that is contrary to the requirements set out in the Municipal Code. Reasonable grounds to believe is a lower standard of proof than “balance of probabilities”.

Mr. Iqbal represented himself at this proceeding, even after the Tribunal advised him of his right to be represented. He heard Mr. Elannan’s testimony, which described the facts relied on by MLS for requesting the revocation of his vehicle-for-hire driver’s licence. Mr. Iqbal did not question Mr. Elannan or call evidence to respond to Mr. Elannan’s testimony.

MLS submits that it does not put the six criminal charges of October 2015 before the Tribunal as a basis for the revocation of Mr. Iqbal’s Vehicle-for-Hire Driver’s licence. The Tribunal agrees that, since these charges are still before the court, they cannot be the basis of findings of fact.

Did Mr. Iqbal breach any of the conditions set out in December 15, 2016 Proposed Resolution which he signed? In answering this question, the Tribunal will focus on the following three conditions:

1. Mr. Iqbal’s Vehicle-for-Hire (formerly referred to as Taxicab Driver’s Licence), Licence No. D01-3953893 (the “Licence”) shall be immediately suspended on an interim basis pending the full and final resolution of the six criminal offence charges identified by Toronto Police Service as General Occurrence Number 2015-1838840.
3. It is understood that during this interim suspension, Mr. Iqbal may not carry out any activities as a vehicle for hire driver (e.g. taxicab or limousine driver) in the City of Toronto.
5. Mr. Iqbal acknowledges that he has had the benefit of independent legal advice in respect of this matter and the terms of this Proposed Resolution.

The incidents relied on by MLS to support its submission of a breach of this Resolution are set out in a chart at page 11 of Exhibit 2. The uncontroverted evidence before the Tribunal is as follows:

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- (a) On December 6, 2020 when TPS attended at Mr. Iqbal's Scarborough home in response to complaints which would result in two charges of mischief under \$5,000 and fail to comply release order, they noted a white Toyota Corolla, Licence CDZL815, parked in his driveway with Maple Leaf Taxicab Plate 1390 attached.

This does not prove that Mr. Iqbal was driving that vehicle as a taxi but it matched the description given to police by his partner of ten years as the vehicle he was driving.

- (b) On April 24, 2021, Mr. Iqbal was ticketed for disobey sign under the HTA as a result of an incident which happened on Amiens Road at Kingston Road in Toronto.
- (c) Mr. Iqbal was stopped and ticketed by TPS for amber light-fail to stop, and for an offence under chapter 546-2A(3) taxicab operator no licence, regarding an incident which occurred at Lawrence Avenue East at Overture Road in Toronto on May 1, 2021.
- (d) On September 3, 2021 Mr. Iqbal was charged under the HTA for pass off roadway for an incident which occurred on Hwy 401 at Neilson Avenue, Toronto.

In the latter three incidents, the vehicle Mr. Iqbal was driving a 2015 white Toyota Corolla sedan, Licence CDZL815, with Taxicab Plate No. 1390. The ICON and TPS records noted that the driver identified himself as Muhammad Ahmad Iqbal with a valid Ontario Driver's licence and he provided valid insurance.

After reviewing the voluminous Reports 5986 and 6311, the testimony and the submissions of the parties, the Tribunal finds that Mr. Iqbal was driving a vehicle for hire, Taxicab 1390, in the City of Toronto. This was in direct contravention of Condition No. 3 of the December 15, 2016 Resolution which specifically prohibited him from carrying out any activities as a vehicle for hire driver (e.g. taxicab or limousine driver) in the City of Toronto during his interim suspension.

Was Mr. Iqbal's breach of the conditions of the Resolution inadvertent? Mr. Iqbal did not testify that he misunderstood the conditions of the Proposed Resolution or that his breach of them was accidental or inadvertent. As noted in the Proposed Resolution which he signed, Mr. Iqbal had legal representation at the time he agreed to the conditions. It was clear that the interim suspension of the licence was pending the "full and final" resolution of the six October 2015 criminal charges. As of the date of this hearing, those six criminal charges are still before the court. The matter was spoken to at the Tribunal on July 20, 2017 and several times thereafter and, at each appearance, it was confirmed that the interim suspension and the conditions of the December 2016 Resolution continued. The Tribunal finds that Mr. Iqbal's contraventions of the conditions of the December 15, 2016 Resolution were deliberate.

Subsection 546-6 D (2) of the Municipal Code provides that,

Where a licensee who is bound by conditions issued in accordance with subsection D(1) of this section is found to have contravened those conditions or any provision

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of this chapter, in addition to any penalty that the Toronto Licensing Tribunal may impose in respect of that contravention, the Toronto Licensing Tribunal may:

- (a) Impose any suspension or revocation of the licence that could have been imposed had the passing of penalty not been suspended.

Having found that Mr. Iqbal did deliberately contravene Condition No. 3 of the Proposed Resolution dated December 15, 2016, the Tribunal now proceeds to balance the protection of the public with the need of the licensee to make a livelihood. The Tribunal is not satisfied that Mr. Iqbal established his need to earn his livelihood as a Vehicle-for-Hire driver. Mr. Iqbal held a Vehicle-for-Hire Driver's licence from 2009 to 2016, but his licence has been suspended since December 15, 2016. Mr. Iqbal provided no evidence or submissions on how he earned his livelihood in the five years his licence was suspended. His submission that he can continue the suspension appears to confirm that he has other means of earning a livelihood. The Tribunal, therefore, concludes that Mr. Iqbal is capable of earning his livelihood without a Vehicle for-Hire driver's licence.

The Tribunal finds that, in the circumstances of this case, the need to protect the public interest outweighs Mr. Iqbal's need for a Vehicle-for-Hire driver's licence.

Taking into consideration all of the evidence and the submissions, the Tribunal orders that Vehicle-for-Hire Driver's Licence No. D01-3953893 be revoked on the grounds that:

- (1) The conduct of Mr. Iqbal affords reasonable grounds to believe that he has not carried on, or will not carry on, the business in accordance with law and with integrity and honesty; and
- (2) There are reasonable grounds to believe that the issuing of a Vehicle-for-Hire Driver's Licence to the Mr. Iqbal has resulted or would result, in a breach of this chapter or any law.

Verlyn Francis

Verlyn Francis, Panel Chair

Panel Members: Mary Lee and Paula Turtle, concurring

Reference: Minute No. 17/22

Date Signed: February 14, 2022