

REASONS FOR DECISION OF THE TORONTO LICENSING TRIBUNAL

Date of Hearing(s): January 9, 2025, and April 24, 2025

Panel: Mary Lee, Panel Chair;
Peter Harris, Member

Re: Mohammed Abdul Kadir (Report No. 7801)
Applicant for a Vehicle-For-Hire Driver Licence (Application No. C300844)

Counsel for Municipal Licensing and Standards (MLS): Amy Murakami

Counsel for Applicant: Unrepresented

INTRODUCTION

Mohammed Abdul Kadir was initially issued a Vehicle for Hire Driver's Licence on March 24, 2003. His licence was cancelled on March 24, 2010, due to an unpaid renewal fee.

On January 17, 2011, Mr. Kadir was issued a new Vehicle for Hire Driver's Licence, and it was cancelled again on January 17, 2021 due to an unpaid renewal fee.

On January 4, 2023, Mohammed Abdul Kadir, submitted application No. C300844 for a Vehicle For Hire Driver Licence. Following an investigation, Municipal Licensing and Standards Division (**MLS**) informed Mr. Kadir by letter dated January 12, 2023, that he has a record of charges and convictions under the Criminal Code of Canada and that this provides them with reasonable grounds to believe that he is not entitled to the issuance of a licence in accordance with Toronto Municipal Code (**the Code**), Chapter 546.

On February 2, 2023, Mr. Kadir requested a hearing before the Toronto Licensing Tribunal (**the Tribunal**). The matter was first before the Tribunal on June 1, 2023. Mr. Kadir failed to attend the hearing on that date. The matter was adjourned to June 22, 2023. At the second hearing on June 22, 2023, the matter was adjourned on consent sine die pending the disposition of Mr. Kadir's criminal charges. The matter came before the Tribunal again on November 7, 2024, and Mr. Kadir failed to attend the hearing. The matter was rescheduled for a hearing on January 9, 2025 and was peremptory on Mr. Kadir.

The matter was before the Tribunal for a hearing on January 9, 2025. At the conclusion of the hearing, the Tribunal reserved its decision.

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The Tribunal issued an Interim Order on February 27, 2025. Pursuant to Rule 21.3 of the Tribunal's Rules of Procedure, the Tribunal recalled the Applicant and the MLS Supervisor for further examination. The matter was before the Tribunal for an in-person continuance hearing on April 24, 2025. At the hearing on January 9, 2025, the Applicant attend via mobile telephone. The purpose of recalling the Applicant to an in-person continuance of the hearing was to ensure that he understood the onus to be met, he received the hearing material, he was fully aware of the evidence put forward by the City of Toronto and he had the opportunity to respond to the evidence. In addition, the Tribunal wanted to ask the Applicant further questions about his criminal record and history of charges. The purpose of recalling the MLS Supervisor was to answer any questions the Applicant may have of the evidence put forward by the City of Toronto. At the outset of the continuance hearing, the Tribunal confirmed with Mr. Kadir that he received and was in possession of all the hearing material.

After considering all the evidence and the submissions of both parties, the Tribunal orders that Mr. Kadir's application for a Vehicle-for-Hire Driver's Licence (Application No. C300844) be denied.

These are the reasons for the decision.

CITY'S EVIDENCE (Hearing held on January 9, 2025)

The evidence of MLS was presented through Stephanie Forza, Supervisor at MLS.

In her testimony, Ms. Forza referred to Report No. 7801 prepared on May 8, 2023, and consisting of 72 pages (entered as **Exhibit #1**). This report was prepared by MLS staff under her supervision.

Ms. Forza referred to the following pages in the report:

- Page 5 - Application for Vehicle-For-Hire Driver's Licence. In the Statement of Fact portion of the application, Mr. Kadir indicated he was charged with a criminal offence.
- Page 3 - Licence History. Mr. Kadir's previous licences were cancelled in 2011 and again in 2021 for unpaid renewal fees.
- Page 7 - Criminal Record and Judicial Matters Check. Reference to an outstanding assault charge on June 3, 2022, with a court date of January 17, 2023.
- Page 10 - Letter dated January 12, 2023, from MLS to Mr. Kadir refusing his Vehicle-For-Hire Driver's Licence because of concerns with outstanding criminal charges.
- Page 11 - Request for Hearing Form completed by Mr. Kadir which brings us to the hearing on January 9, 2025.

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- Page 12 - A summary chart setting out criminal code charges and convictions registered against Mr. Kadir, including assault charges that occurred on August 18, 2014, and June 3, 2022.

Ms. Forza's testimony also included an update to Report 7801 dated October 23, 2024, consisting of 3 pages (entered as **Exhibit #2**).

Ms. Forza referred to the following pages in Exhibit #2:

- Page 2 - An updated summary chart of criminal code charges and convictions.
- Line 1 of the chart refers to an assault charge on June 3, 2022, and a disposition of "Sentenced April 12, 2023".
- Line 2 of the chart refers to an assault with a weapon charge on March 18, 2023, with a disposition of "Sentenced on August 12, 2024".
- Line 3 of the chart refers to additional charges dated March 18, 2023, including Mischief Under \$5,000 and Assault with a disposition of "Withdrawn".

Ms. Forza's testimony included the following pages in a second update to Report 7801 dated January 6, 2025, consisting of 11 pages (entered as **Exhibit #3**).

Ms. Forza referred to the following pages in Exhibit #3:

- Page 10 - General Occurrence Records Release related to the incident that occurred on June 3, 2022. In summary it reads that on June 3, 2022, the victim attended the accused's place of work seeking repayment of an outstanding loan. The victim went to his car and continued to argue with the accused when the accused attempted to yank the victim out of the vehicle while he still had his seat belt on. The victim suffered a 3"- 4" scratch on the left side of his chest. The victim left the scene and reported the accused to the police. On Sunday, June 5, 2022, the accused attended 41 Division and turned himself in. He was charged accordingly and released on a Form 10.
- Ms. Forza referred back to Exhibit #1, page 61, Record of Arrest for Mr. Kadir on August 7, 2008.
- Page 65 of Exhibit #1 - Supplementary Record of Arrest, indicates that Mr. Kadir was charged with 3 counts of fraud, theft of a credit card, possession of a credit card obtained by crime on June 27, 28 and 29 of 2008. In summary, on June 27, 2008, the complainant paid his fare using his credit card. He forgot to get his card back from the accused. A few days later, the complainant found out that he left his credit card in the taxi. He called the bank and found out that there had been several unauthorized transactions on his card. On August 7, 2008, the accused attended 55 Division for a video statement. The accused was arrested and was charged accordingly and was released on a Form 10.

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- Page 54 - A summary chart that sets out a history of three by-law convictions.
- Page 7 of Exhibit #3 - Driver Record Abstract shows Mr. Kadir's driver's licence was suspended from June 17, 2024, to June 20, 2024 for a Distracted Driving Violation.
- Page 4 of Exhibit #3 - A summary chart listing a history of Highway Traffic Act violations. Lines 1, 2 and 3 show a court date of January 10, 2025, and February 10, 2025, for three violations that occurred on September 17, 2024. These include Driving While Under Suspension, Possession of a Cancelled/Revoke/Suspended licence, and Window/Windshield Obstructed.
- Page 4 of Exhibit #3 - A second summary chart that identifies a Municipal Code offence dated March 7, 2019, for Operating Vehicle with Unlicensed Owner-Taxicab. Mr. Kadir was convicted on August 15, 2019, and there is still an outstanding fine of \$200.

In cross-examination, Mr. Kadir did not dispute any of the City of Toronto's evidence, and he had no questions.

APPLICANT'S EVIDENCE (Hearing held on January 9, 2025)

At the hearing on January 9, 2025, Mr. Kadir submits that his Vehicle-For-Hire Driver's Licence should be granted. He stated that the court ordered him to attend a 6-hour anger management course in downtown Toronto. He can't remember the exact date. He reports to the probation office every month. He has 6 months left in his probation. Mr. Kadir stated that he does not work anymore. He used to do meat and food delivery.

Mr. Kadir lives with his wife and four children ages 2, 4, 6 and 14 years old. His wife does not work and receives child benefits. Mr. Kadir stated that he receives disability benefits. He stated that he cannot work anymore and is unfit for work. He can't stand for too long. In 2017, he had an accident. He was in the hospital for 6 months. He feels better now. Some days he feels okay and other days he is not okay. He stated that he is still on medication. Mr. Kadir stated that if his licence is granted, he can drive 1 or 2 days a week.

In cross-examination, Mr. Kadir stated that he was ordered to take one anger management course because of the two assault charges in 2022 and 2023. Mr. Kadir stated that since 2021, he has applied for many jobs at both convenience and grocery stores, but he was never hired. Regarding the fraud charges dating back to 2008, Mr. Kadir stated that the passenger was a friend and not a customer.

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Mr. Kadir stated that he used his friend's credit card to buy a sweater by mistake. The charges were withdrawn, and he was ordered to perform 6 months of volunteer service which he completed.

When asked by MLS Counsel what happened with the assault charge on August 18, 2014, Mr. Kadir stated that he was playing cards with other taxi drivers at a friend's home. His mother recently passed away. A taxi driver, who was a childhood friend, criticized his mother, and he punched that person in the face and his teeth fell out. The person reported the incident to police. When Mr. Kadir went to the police he was charged and released on bail. The charges were withdrawn with a peace bond. He had to pay \$600 in compensation and complete volunteer work for 30 or 60 days.

When asked by MLS Counsel what were the conditions that he failed to comply with 6 days later and then again, a week later, Mr. Kadir stated that they both worked downtown as taxi drivers, and they were required to stay so many meters away from one another. The other person, on purpose, wanted him to be arrested again by the police and he went back three times to the police to complain about him. He said I would give him the finger. Mr. Kadir stated that they never spoke to one another.

When asked to describe what happened in relation to the assault charge that occurred on June 3, 2022, Mr. Kadir stated that he was at the shop where he does deliveries. While he was there, the other person accused him of owing him money and then he punched him first. Mr. Kadir ran out to the person's car and tried to pull him out of the car, but he had his seat belt on. His window was halfway up, and he attempted to pull him out the window by his shirt. Mr. Kadir said the other person should have been charged because he punched him first.

Mr. Kadir then described what happened in relation to the assault with a weapon charge that took place on March 18, 2023. Mr. Kadir said he was attending a birthday celebration at a friend's unit above a commercial establishment at 11:30 p.m. They were drinking. The owner of the establishment complained that we threw a beer bottle out of the upstairs window to downstairs. Mr. Kadir stated he was drunk at the time when they threw the bottle out the window. While he was convicted for assault with a weapon, Mr. Kadir repeatedly stated that he did not hit his friend with the beer bottle.

When questioned about the mischief under \$5000 charge and a separate assault charge, Mr. Kadir said he has no idea what it was about, but his lawyer looked after it. Mr. Kadir also had no idea about the separate assault charge.

When asked by MLS counsel what were you ordered to do because of the assaults, Mr. Kadir responded that he was ordered to take one anger management course for both assaults.

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MLS Counsel referred Mr. Kadir back to Exhibit 3, Page 7 of the report being the most recent provincial driver's license abstract dated January 6, 2025. It showed that on June 17, 2024, Mr. Kadir was convicted for operating a vehicle with a handheld device and his license was suspended. MLS Counsel asked Mr. Kadir if he recalled why his license was suspended. Mr. Kadir attempted to explain that the device in his car showed a ticket for \$650. He went to his paralegal's office to give him the code and told him the ticket was for the phone in his hand. He stated that the phone was not in his hand, and he gave the paralegal \$650 plus his fee to attend court on his behalf. He talked to the paralegal one or two times after that visit and he thought that he was acting on my behalf. He attended the paralegal's office, but it was no longer there, and the phone number no longer existed.

At the same time this was happening, Mr. Kadir explained that he moved to a different address. He asked the landlord to hold on to his mail because he could not afford to have his mail forwarded to his new address for 6 months. He stated that he did not receive the letter to attend court and his licence was suspended. Shortly after that, Mr. Kadir stated that the police pulled him over and told him he doesn't have a license. He left his car and went to the Ministry of Transportation to pay the fee and have his licence reinstated. He went back to the vehicle and drove it. Mr. Kadir said he has another representative and the case is going back to court next month.

MLS Counsel asked Mr. Kadir to explain the window windshield obstruction charge. Mr. Kadir said that he had some papers and a book under the windshield.

Lastly, MLS Counsel asked Mr. Kadir why he did not pay an outstanding \$200 fine from a by-law infraction conviction back in 2019. Mr. Kadir responded that he did not know about this outstanding fee and asked where to go to pay and stated he will pay it.

SUBMISSIONS

Applicant's Closing Submissions (Hearing on January 9, 2025)

Mr. Kadir did not make a closing submission. He had no further comment.

MLS Closing Submissions (Hearing on January 9, 2025)

MLS Counsel, Ms. Murakami, submitted that there are reasonable grounds to believe that Mr. Kadir will violate the terms of Chapter 545 of the Code. As such, the application for a Vehicle-for-Hire Driver's Licence should be denied.

Ms. Murakami cited the case of Yarco Developments Inc. v. Home Construction Regulatory Authority (Registrar), 2024 ONSC 93 (Div. Ct.) where it was confirmed that in regulatory proceedings like the Toronto Licensing Tribunal and Municipal

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Licensing and Standards at the City of Toronto these bodies are deemed to have reasonable grounds to deny unless Mr. Kadir, the applicant, proves otherwise. This means that Mr. Kadir bears the onus of proving that the City of Toronto in this case does not have reasonable grounds to deny his application for a Vehicle-for-Hire Driver's Licence.

There is evidence from MLS and the police showing that Mr. Kadir has a lengthy criminal history with respect to his operation of a business. Documents from the Toronto Police Services confirm that as far back as 2008, Mr. Kadir was charged with numerous offenses related to the use of a credit card after it was left behind during the operation of a taxicab. While that matter was withdrawn, six years later, Mr. Kadir was also charged with assault and as a result Mr. Kadir was ordered to take an anger management course. Within a couple of weeks of those charges, there were subsequent charges for failure to comply with the conditions set out in the peace bond, all of which were withdrawn. We heard the circumstances surrounding these charges from Mr. Kadir.

Most recently, in June 2022, which is the reason why the matter was referred to the Toronto Licensing Tribunal, Mr. Kadir was charged and subsequently convicted of assault. Mr. Kadir stated that this occurred in a business context. In his evidence, Mr. Kadir stated that he was conducting deliveries for a business at the time. It is his evidence that an individual had an outstanding dispute with the owner. Mr. Kadir got into an altercation with this individual after the person exited the premises. It is important to note that the individual was in his car at the time. Mr. Kadir then attempted to pull him out of the vehicle. Mr. Kadir was charged with assault. The police record confirms that the victim sustained injuries. Mr. Kadir confirmed that the victim was not charged with any offences as a result of this incident. He indicated that he was required to take an anger management course, but from the evidence it is not clear whether or not that was actually done.

Less than one year later, on March 18, 2023, Ms. Murakami submitted that Mr. Kadir was charged with assault with a weapon and mischief under \$5,000. This is particularly concerning to the City of Toronto. Mr. Kadir was just charged with the offence of assault and ordered to take an anger management course and then subsequently, less than a year later, he is charged with three new criminal code offences.

Regarding these offences, the Tribunal heard from Mr. Kadir that he was at a social event with friends and was intoxicated. His evidence was not clear despite repeated questioning and Ms. Murakami submits that Mr. Kadir was not forthcoming in his responses. His version of events describing the dropping of a beer bottle is inconsistent with the fact that he was convicted of assaulting an individual with a weapon. This conviction required him to take an anger management course, which he states he completed.

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In addition to the criminal code issues, the City of Toronto raised concerns with Mr. Kadir's driving history. Mr. Kadir's licence was suspended between June 17 and 20, 2024 due to a distracted driving violation. Ms. Murakami submits that it appears that he was charged three months later for driving while under suspension. On September 17, 2024, Mr. Kadir was charged with driving while under suspension which resulted in a second suspension of his licence. One suspension was for a three-day period in June 2024 and another in September 2024. As it stands, there are three outstanding driving charges, driving while licence under suspension, possession of a revoked or suspended licence and window or windshield obstruction.

In addition, Ms. Murakami submits that there is an outstanding fine for \$200 for an MLS municipal code infraction for operating a vehicle with an unlicensed owner in a taxicab. The offence date was 2019. This fine is outstanding for 6 years. Mr. Kadir stated that he had no knowledge of the fine despite him having a copy of the report since May 2023. Mr. Kadir has made no efforts to ensure this fine was paid.

In closing, Ms. Murakami submits that the totality of the evidence strongly supports the City of Toronto's position that the Vehicle-For-Hire licence should be denied. The recent and the severity of the criminal code convictions are of particular concern given that the charges seem to have the same trigger of anger. In particular, the description of the offense in 2022 where Mr. Kadir was accused of something and then it turned violent very quickly when the individual was in his vehicle trying to leave. This incident is of concern because as a Vehicle-For-Hire driver, Mr. Kadir will be transporting and dealing with members of the public every day and potentially there will be high stress situations. With Mr. Kadir's record, Ms. Murakami submits that this is not an individual who should have a Vehicle-For-Hire Driver Licence.

CITY'S EVIDENCE (continuance hearing on April 24, 2025)

At the continuance hearing on April 24, 2025, MLS did not submit any additional evidence. Again, Mr. Kadir did not dispute any of the City of Toronto's evidence and he had no follow-up questions.

APPLICANT'S EVIDENCE (continuance hearing held on April 24, 2025)

At the beginning of the hearing on April 24, 2025, the Tribunal referenced the case cited by MLS Counsel, Ms. Murakami at the hearing on January 9, 2025, Yarco Developments Inc. v. Home Construction Regulatory Authority (Registrar), 2024 ONSC 93 (Div. Ct.). The Tribunal reminded Mr. Kadir that the onus is on him to prove to the Tribunal that he will be honest and not endanger the public when his is driving a vehicle. The Tribunal also referenced Exhibit #3, the Summary Chart

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of charges and convictions against Mr. Kadir. The two charges and convictions that are of most concern to the Tribunal is the assault charge dated June 3, 2022, and the second assault with a weapon charge on March 18, 2023.

When asked what happened at the incident that occurred on June 3, 2022, Mr. Kadir testified that he went to help his friend at the grocery store. "Another friend was there and began yelling and swearing" and "spit on him" at him for no reason. "We had an argument." "The friend went to his car and tried to put up his window, and I followed him to his car, grabbed his seat belt and attempted to pull him out. I asked him why are you yelling at me. My other friend told me to let him go." He stated that he did not beat the man up and he did not see any injury. Mr. Kadir testified that he was charged, he went to court with his lawyer, and he pled guilty. When asked about the sentence, Mr. Kadir stated that he was put on probation for 1 year and ordered not to talk to the person.

When asked what happened at the incident that occurred on March 18, 2023, Mr. Kadir testified that he attended a birthday party at an apartment above a store. He was drinking alcohol, and a friend was shouting for him to come downstairs. He was "drunk and threw a beer bottle out the window from the second floor to the ground below." He can't remember why he threw the beer bottle out the window. His friend told him that the bottle did not hit anyone. Mr. Kadir testified that he "went to court with his lawyer and he pled guilty for assault with a weapon." When asked why he pled guilty, Mr. Kadir testified that when he is "drinking, he can't remember what he does so he must be guilty."

FINAL SUBMISSIONS

MLS Closing Submissions (Continuance Hearing on April 24, 2025)

Ms. Murakami reminded the Tribunal that the terms of the legal threshold and the relevant sections of Chapter 546 of the Code were brought to Mr. Kadir's attention in the refusal letter dated January 12, 2023. In addition, the Yarco Divisional Court decision that sets out the onus to be met was also sent to Mr. Kadir back in January 2023. Ms. Murakami submits that the onus is on Mr. Kadir to demonstrate he would uphold the provisions of Code set out in Chapter 546. Despite the new evidence presented by Mr. Kadir at the continuance hearing, he has not met that onus and therefore there are reasonable grounds to deny the issuance of a Vehicle-For-Hire Driver's Licence.

Ms. Murakami further stated that the assault conviction is front of mind. Mr. Kadir's testimony overall was evasive, and he did not provide clear details and that continued at the continuance hearing. When describing the assault that took place at the business, Mr. Kadir said the person spit on him. This testimony is different from what we heard at the hearing on January 9, 2025. Furthermore, Ms. Murakami stated that when discussing the occurrence that took place on March

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19, 2023, Mr. Kadir testified that while he was intoxicated, he was certain that the beer bottle did not hit anyone because his friend told him so. Ms. Murakami submits that Mr. Kadir pled guilty to assault with a weapon and we cannot look behind that. In closing Ms. Murakami states that what we heard at the continuance hearing had not changed her position. There continue to be reasonable grounds to deny the issuance of a Vehicle-For-Hire Driver's Licence.

Applicant's Closing Submissions (Continuance Hearing on April 24, 2025)

Mr. Kadir stated that he will be honest, he will not harm the public and he will try not to do anything wrong.

ANALYSIS OF THE ISSUES

The issue before the Tribunal is whether Mohammed Abdul Kadir's Vehicle for Hire Driver Licence (Application No. C300844) should be granted or denied.

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:

- (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 Tribunal has carefully considered the evidence in this matter. MLS argues that the renewal application should be denied because Mr. Khadir's behavior demonstrates a pattern of conduct that establishes, he lacks the ability to conduct himself with honesty and integrity (2008 credit card offences) and that he is prone to violence on a regular basis (assault 2014; assault 2022; and assault with a weapon, 2023). MLS contends that these offences, considered cumulatively, even if some resulted in a peace bonds, still represent conduct that provides reasonable grounds to believe he will not presently engage with the public with honesty and in a peaceable, non-violent manner.

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The Municipal Code offences and the outstanding Highway Traffic Act charges would not appreciably affect the outcome of this proceeding even when weighed together with the credit card and assault-related offences.

(1) The Fraud (3 counts), Theft & Possession of Credit Card by Crime Offences

The first issue before the Tribunal is – what weight should we attribute to the act of dishonesty that resulted in credit card offences. Would a fair-minded Toronto taxi customer believe that this conduct would support a reasonable belief that Mr. Khadir would be dishonest in his dealings with the public in 2025? The tribunal is of the view that Mr. Khadir met his onus of proof on the honesty and integrity question for the following reasons:

- (a) The credit card offences resulted in a withdrawal and a peace bond;
- (b) These offences occurred in 2008 and he has driven a taxicab for over fifteen years without any further honesty-related offences;
- (c) The credit card offences took place over 17 years ago, at a different time in his life prior to assuming the responsibilities of supporting a family;

For the above reasons we would not deny Mr. Khadir a taxi driver's licence on account of his 2008 credit card offences.

(2) The Assault Offences

The 2014 assault, while worrisome, is not our most serious concern for the following reasons:

- (a) Notwithstanding the fact Mr. Khadir appears to have caused some type of injury resulting in dental damage, the charge resulted in a withdrawal and a peace bond;
- (b) The act appears to have arisen in a card game in the context of extreme provocation and a spontaneous reaction;

By itself, in our view, a fair-minded Toronto taxi customer would not conclude that this conduct would support a reasonable belief that Mr. Khadir would endanger the public in 2025 as a result of an act that took place 11 years ago.

The Tribunal, however, has concluded that the 2022 and 2023 assaults are a different matter.

(3) The assault “seat-belt” incident

MLS has helpfully provided the police allegations for this offence. The Supreme Court has held that a criminal court conviction could not be re-litigated in a separate administrative law proceeding and the administrative body is required to accept it with all its consequences: *Toronto (City) v. C.U.P.E., Local 79*, [2003] 3 S.C.R. 77, 2003 SCC 63.

In respect to the April 12, 2023, assault conviction, Mr. Kadir said he was struck in the face and pursued the individual who hit him to a car and attempted to remove him from the driver’s seat. On the April 24, 2025, continuation of this Hearing, Mr. Khadir testified the man he later accosted “spit” on him, before he attempted to remove him from the car. MLS provided a synopsis that indicated the Applicant tried to “yank” the male out of the front seat of a car causing a four-inch scratch. It remains unclear what Mr. Khadir was attempting to accomplish aside from confronting the man in the car.

The Tribunal has concluded that Mr. Khadir’s actions on April 12, 2023, were relatively quite serious for the following reasons:

- (a) The MLS evidence, which we accept, describes an attempt to “yank” the man out of the car causing a 4-inch scratch;
- (b) Mr. Khadir has offered two different versions of what the complainant did before the assault at the car. His evidence is ambiguous, inconsistent, and not credible;
- (c) The Applicant’s assault on the complainant could not be justified as self-defence;
- (d) Mr. Khadir’s actions took place, at place and time, when the vehicle could have been put in motion causing serious injury;
- (e) Mr. Khadir was placed on probation with a condition that he attend counseling for anger management;

(4) The assault with a weapon “thrown bottle” incident

As to the August 12, 2024, assault with a weapon conviction, MLS provides no information beyond a bare conviction. All we know from Mr. Kadir’s evidence is that he was drinking, a beer bottle was thrown by him from the second floor of a

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residence onto a ground-level parking lot; he denies any intent to assault anyone with the bottle but because of his alcohol consumption (he stated he had two beers) he does not know what occurred. He says he pleaded guilty because “when he is “drinking, he can’t remember what he does so he must be guilty.” We draw the reasonable inference that he pleaded guilty because he thought he struck someone with the bottle.

While we don’t have clear evidence or details about the incident from MLS on which to decide what actually transpired, on the basis of *Toronto (City) v. C.U.P.E., Local 79*, (supra), we must accept the conviction and all its consequences.

On the basis of the following, the Tribunal has concluded that this assaultive conduct was quite serious for the following reasons:

- (a) The act of throwing a bottle from a second floor window onto a ground-level parking lot close to Danforth Avenue in Toronto is an act fraught with danger for pedestrians in the area;
- (b) To do so at a time he says he was “drunk”, knowing pedestrians were likely on foot in the area and being heedless of whether any person was struck or not is extremely callous behavior;
- (c) The fact Mr. Khadir pleaded guilty is in our view, inferentially, an admission that he accepts the fact he struck a person with the bottle;
- (d) The fact Mr. Khadir was placed on probation with a term that he have no contact with a named individual is further inferential evidence he did actually strike a person with the bottle;

CONCLUSION

There is no doubt that a fair-minded Toronto taxicab customer would be extremely concerned about Mr. Khadir’s behavior in regard to both of these very serious, recent assault convictions, particularly the mindless throwing of a bottle, while drunk, into a public place where he had to have known members of the public were present.

Mr. Khadir called no specific evidence in terms of his “Yarco” onus, but he did assert that he would be honest and not endanger the public in any way should he be allowed to be licensed.

Regrettably, for Mr. Khadir, we are not persuaded that he has met his onus to demonstrate there are not reasonable grounds to believe he would not, at present,

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represent a danger to the public. Put another way, we believe a fair-minded taxicab customer would have reasonable grounds to believe Mr. Khadir would be a danger to the public if permitted to drive a taxicab at this time.

The Tribunal has concluded that the behavior that brings Mr. Khadir before us is inferentially predictive of future behavior as a result of the recency of the cumulative assaultive conduct and its seriousness.

The Balancing Test

The Tribunal has a mandate to balance the protection of the public against an individual's need to earn a livelihood, as set out in the Toronto Municipal Code, Chapter 545-8 C. While Mr. Khadir's current lack of steady employment and his inability to support his family create a compelling argument for reinstating his license, the recent serious, assaultive conduct and the associated risk to the public significantly outweighs any societal obligation to help him earn a livelihood. The balancing test will be decided in favour of protecting public safety.

DECISION

After considering all the evidence and the submissions of both parties, the Tribunal orders that Mr. Kadir's Vehicle-for-Hire Driver's Licence be denied on the grounds that:

- (1) The conduct of Mr. Kadir affords reasonable grounds to believe that the applicant has not carried on, or will not carry on, the business in accordance with law and with integrity and honesty;
- (2) There are reasonable grounds to believe that the issuing of a Vehicle-for-Hire Driver's Licence to the applicant has resulted or would result in a breach of this chapter or any law; and
- (3) The conduct of Mr. Kadir affords reasonable grounds to believe that the granting of a Vehicle-for-Hire Driver's Licence to him would infringe the rights of other members of the public or would endanger their health or safety.

Mary Lee, Panel Chair

Panel Member: Peter Harris, concurring

Reference: Minute Nos. 3/25 and 26/25



Date Signed: May 9, 2025.