

Federal Court



Cour fédérale

Date: 20230420

Docket: IMM-7068-22

Citation: 2023 FC 576

Ottawa, Ontario, April 20, 2023

PRESENT: Mr. Justice O'Reilly

BETWEEN:

SAEID TAEB

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] In 2022, Mr Saeid Taeb, a citizen of Iran, applied for a Canadian study permit to pursue studies in English and International Business at Seneca College. His employer in Iran promised to promote him after he obtained his diploma.

[2] A visa officer denied Mr Taeb's application because the officer was not satisfied that Mr Taeb would return to Iran at the end of his program. In particular, the officer noted that Mr Taeb's financial records did not set out details of his banking transactions. Accordingly, the

officer was not satisfied that the assets and funds in Mr Taeb's account were actually available to him to cover his education and living expenses. The officer also doubted that Mr Taeb needed additional education to advance his career objectives in Iran as he already had a Bachelor's degree in Accounting.

[3] Mr Taeb argues that the officer treated him unfairly by not giving him a chance to respond to those concerns. He also submits that the officer's decision was unreasonable. He asks me to quash the officer's decision and order another officer to reconsider his application. I agree with Mr Taeb that he was treated unfairly. I will grant this application for judicial review on that basis; I need not consider the issue of unreasonableness.

[4] The sole issue is whether the officer treated Mr Taeb unfairly.

II. Did the officer treat Mr.Taeb unfairly?

[5] The burden falls on applicants to show that they meet the requirements for a study permit, including providing evidence establishing that they will leave at the end of their period of study (*Immigration and Refugee Protection Regulations*, (SOR/2002-227), s 216(1)(b) (see Annex)). However, officers must give applicants a fair opportunity to address concerns about the credibility or accuracy of their evidence (*Ibekwe v Canada (Citizenship and Immigration)*, 2022 FC 728 at para 17).

[6] Here, the applicant provided information about his financial resources — cash on hand, real estate, and a tuition deposit. Still, the officer believed that the documentary evidence was

merely for “demonstrative purposes.” Presumably, the officer meant that the evidence did not demonstrate Mr Taeb’s true financial position but, rather, was a deceptive façade. The basis for the officer’s concern is not apparent from the reasons.

[7] Since the officer was questioning the genuineness of Mr Taeb’s financial evidence, it was incumbent on the officer to provide Mr Taeb an opportunity to respond. In the absence of that opportunity, the handling of Mr Taeb’s application was unfair.

III. Conclusion and Disposition

[8] Mr Taeb was not afforded an opportunity to respond to the officer’s concern about the validity of his documentary evidence. He was, therefore, treated unfairly. Accordingly, I will grant this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-7068-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial reviewed is allowed and the matter is returned to another officer for reconsideration.
2. No question of general importance is stated.

"James W. O'Reilly"
Judge

ANNEX

***Immigration and Refugee
Protection Regulations
(SOR-2002-227)***

**Règlement sur l'immigration
et la protection des réfugiés
(DORS/2002-227)**

Study Permits

Permis d'études

216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

[...]

[...]

(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;

b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

[...]

[...]

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7068-22

STYLE OF CAUSE: SAEID TAEB v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: APRIL 3, 2023

JUDGMENT AND REASONS: O'REILLY J

DATED: APRIL 20, 2023

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