

B E T W E E N:

EMIL DASCALU

Applicant

- and -

THE MINISTER OF CITIZENSHIP & IMMIGRATION

Respondent

REASONS FOR ORDER

REED, J. (orally):

The only issue in this case is whether the visa office properly exercised his negative discretion to disallow the applicant's application for permanent residence in Canada. I note firstly the doctrine of legitimate expectations only applies to procedural matters. The evidence does not disclose any procedural unfairness.

There was an interview the officer disclosed to the applicant the source and nature of his concerns. The officer did assess the applicant on his merits - the officer noted factors such as that the applicant had quit his job because of lack of professional fulfilment and social dissatisfaction. He noted the applicant's job experience, or lack thereof, and the paucity of the evidence concerning some of what was claimed. There is no substance to the contention that the visa officer delegated his decision making responsibility or abdicated his decision making responsibility.

A person who applies for permanent residence status in Canada knows, has to know that the degree of occupational demand in Canada for people who are qualified to work in the field in which he or she has such qualifications is a crucial consideration to

a successful application. It is crucial to that individual's ability to establish him or herself in Canada. As counsel for the applicant noted, the burden of proof is on an applicant to demonstrate that he or she should be granted permanent resident status. The demand for those qualified in the applicant's fields, (air traffic controller / flight dispatcher) was established, in the manual that the visa officer was obligated to apply, "as one (1) on a scale of 0 to 10 where 10 ten is the high end of the scale. There was no change of occupational demand requirements being imposed on the applicant when the visa officer raised with him in the interview that he would have difficulty finding employment in his field in Canada because of a number of factors, e.g. his age, his lack of Canadian training; there was only one employer, the federal government; the low demand in Canada because of what we call downsizing. This was not an ambush as counsel suggests.

What is more there has been no attempt to introduce evidence to show that the visa officer's assessment of the difficulties that would exist for someone in the applicant's position; in attempting to establish himself in Canada was incurred, or based on inaccurate information concerning the job situation in Canada.

For the reasons given the application is dismissed.

"B. Reed"
Judge

Toronto, Ontario
October 1, 1997

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

COURT NO: IMM-4415-96

STYLE OF CAUSE: EMIL DASCALU

- and -

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

DATE OF HEARING: OCTOBER 1, 1997

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR ORDER BY: REED, J.

DATED: OCTOBER 1, 1997

APPEARANCES:

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For the Respondent

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For the Respondent

FEDERAL COURT OF CANADA

Court No.: IMM-4415-96

Between:

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