

Between:

AKIRA IWATA,

Applicant,

- and -

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION,

Respondent.

REASONS FOR ORDER

HEALD, D.J.

This is an application for judicial review of the decision of visa officer Virginia Hughes, dated November 7, 1996. By that decision, the visa officer refused the applicant's application for permanent residence in Canada.

ISSUES

1. Did the visa officer commit reviewable error in determining the assessment units for personal suitability?
2. Did the visa officer commit reviewable error in determining the units of assessment to be given to the applicant for his capabilities in the English language?
3. Did the visa officer commit reviewable error by failing to exercise positively the discretion given to her pursuant to subsection 11(3) of the *Immigration Regulations*.

ANALYSIS

1. Personal Suitability

The applicant was awarded six out of ten possible points in this category. On this basis, I am unable to conclude that the visa officer failed to recognize the positive elements of the applicant's circumstances. The applicant refers to two letters which

are characterized as employment offers.¹ However, both letters state that the respective employer would "seriously consider" hiring the applicant. Such tentative language can hardly be said to be tantamount to a job offer.

¹Applicant's record - pp 19 & 20

2. Units of Assessment for English

An error in the assessment alone would not have brought the applicant's total assessment to the required 70 points and, accordingly, the Court would not be entitled to intervene. However, it is evident on this record that the applicant's spoken English was inadequate at the time of the interview and that he was not entitled to be given any points for proficiency in English.

3. Subsection 11(3) of the *Immigration Regulations*

This subsection empowers a visa officer to issue a visa to an immigrant who has not been awarded the necessary assessment units if "... in his opinion, there are good reasons why the number of units of assessment awarded do not reflect the chances of the particular immigrant and his dependants of becoming successfully established in Canada...".

In my view, this record does not establish that the visa officer failed to exercise the discretion given to her pursuant to this subsection.

CONCLUSION

Accordingly, and for the above reasons, the within application for judicial review is dismissed.

CERTIFICATION

Neither counsel suggested certification of a serious question of general importance pursuant to Section 83 of the *Immigration Act*. I agree with counsel that, this is not a case for certification. Accordingly, no question is certified.

(Sgd.) "Darrel V. Heald"
Deputy Judge

Vancouver, British Columbia
August 14, 1997

NAMES OF COUNSEL AND SOLICITORS OF RECORD

STYLE OF CAUSE: AKIRA IWATA

- and -

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

COURT NO.: IMM-4645-96

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: August 14, 1997

**REASONS FOR ORDER OF HEALD, D.J.
dated August 14, 1997**

APPEARANCES:

Mr. K. David Andersson for Applicant

Ms. Wendy Petersmeyer for Respondent

SOLICITORS OF RECORD:

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