

Federal Court



Cour fédérale

Date: 20160517

Docket: IMM-3953-15

Citation: 2016 FC 556

Toronto, Ontario, May 17, 2016

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

HAIRE PANOTI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant has applied for judicial review of a Decision dated August 4, 2015 (the Decision) made by a Visa Officer (the Officer) at the Canadian embassy in Rome. The Officer denied an application for permanent residence on the basis of a finding of misrepresentation. This application is made pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c. 27.

I. The Facts

[2] The Applicant is a 40 year old, married female citizen of Albania who submitted an application for permanent residence under the Saskatchewan Immigration Nominee Program (SINP). The application for permanent residence included her dependent husband and two minor children. They arrived in Saskatchewan in November 2014 and, since then, the Applicant has been employed as a cook at the restaurant that nominated her under the SINP.

[3] In support of her application for permanent residence the Applicant provided a Test Form Report showing her scores from the International English Language Testing System (IELTS). However, the Officer was unable to verify her test scores on-line using the IELTS verification system. Further, an e-mail dated March 13, 2015 from the British Council in Albania (the Council) advised the Officer that the Applicant's test scores were not authentic because the Test Report Form did not match their records.

[4] The Officer therefore sent the Applicant a fairness letter dated April 7, 2015 setting out that on-line verification had not been possible and that the Council said that the scores were not authentic.

[5] In response, the Applicant provided a letter dated April 10, 2015 (the Letter) from the Council confirming that she had been tested on January 29, 2015 and that the Test Report Form reflected her scores. The Officer e-mailed the Letter to the Council for verification.

[6] The Council e-mailed the Officer on May 21, 2015 and advised that the Letter and the Test Report Form were not authentic because they did not match the Council's records.

[7] The Officer therefore concluded that the Applicant was inadmissible for misrepresentation because the fraudulent IELTS scores submitted in support of her application for permanent residence could have affected a decision about whether the Applicant had the ability to economically establish in Canada.

II. The Issue

- Did the Officer breach the duty of fairness by not providing the Letter to the Applicant and affording her an opportunity to respond?

III. Discussion

[8] In my view, the Officer met the requirements of procedural fairness when the Fairness Letter of April 7, 2015 was sent notifying the Applicant that on-line verification had failed and that the Council said that her IELTS scores were not authentic because they did not match its records. The Officer's duty of fairness is at the lower end of the spectrum and accordingly there was no requirement to provide the Applicant with a second opportunity to respond to the same concerns.

IV. Certification

[9] No question was posed for certification for appeal.

JUDGMENT

THIS COURT'S JUDGMENT is that for these reasons, the application for judicial review is hereby dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: HAIRE PANOTI v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 16, 2016

JUDGMENT AND REASONS: SIMPSON J.

DATED: MAY 17, 2016

APPEARANCES:

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