

Federal Court



Cour fédérale

Date: 20170206

Docket: T-743-16

Citation: 2017 FC 141

Ottawa, Ontario, February 6, 2017

PRESENT: The Honourable Madam Justice McDonald

BETWEEN:

ZAMIR UL HASAN ZAIDI

Applicant

and

**IMMIGRATION CONSULTANT
REGULATORY COUNCIL OF CANADA**

Respondent

JUDGMENT AND REASONS

[1] Mr. Zaidi would like to become a Regulated Canadian Immigration Consultant [RCIC]. The Respondent, Immigration Consultant Regulatory Council of Canada [ICRCC], is responsible for regulating the qualifications to become a RCIC. Mr. Zaidi has failed to meet the mandatory qualifications to become a RCIC, because he has not obtained the minimum required score on the language testing. Mr. Zaidi argues that he has been discriminated against in the language testing because of his medical disabilities. He further argues that his abilities to function in

English have otherwise proven to be sufficient, and therefore should be deemed sufficient for ICRCC's requirements. Mr. Zaidi represented himself on this application.

[2] Unfortunately for Mr. Zaidi, there is no relief this Court can provide. His claim is therefore dismissed.

I. Background

[3] The ICRCC is the national regulator for RCICs pursuant to the *Regulations Designating a Body for the Purposes of Paragraph (91)(2)(c) of the Immigration and Refugee Protection Act*, SOR/2011-142 [Ministerial Regulations]. As the regulator, ICRCC has the mandate to act in the public interest in regulating individuals who can provide immigration and citizenship advising services (see: *Canadian Society of Immigration Consultants v Canada (Citizenship and Immigration)*, 2011 FC 1435).

[4] In order to become a RCIC, Applicants must meet specific requirements, as outlined in the Ministerial Regulations. The requirements include completing an accredited immigration practitioner's program and, within three years, achieving the minimum required score on an ICRCC approved English or French language proficiency test.

[5] In May 2011, Mr. Zaidi successfully completed an online Immigration Consultant Certificate Program. In the following three years, he attempted on multiple occasions to pass the language test, but unfortunately did not obtain a score that met the requirements.

[6] In November 2014, Mr. Zaidi again successfully completed courses to qualify for Immigration Consultant training, but failed to meet the language score requirements on subsequent testing.

II. Issue

[7] Mr. Zaidi argues that his medical disabilities were not sufficiently accommodated for in the language testing.

III. Analysis

[8] Mr. Zaidi explains that he has a heart problem and that some of his medical treatments have had a negative impact on his memory. He also explains that he has problems with his right hand. Mr. Zaidi argues that these disabilities put him at a disadvantage in undergoing the required testing and that this amounts to discrimination.

[9] The Respondent explains that the ICRCC has mandatory minimum language requirements for RCICs, pursuant to subsection 74(2) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 which provides that the “minimum language proficiency thresholds fixed by the Minister shall be established in reference to the benchmarks described in the Canadian Language Benchmark...”.

[10] It is important to note that ICRCC does not administer the language proficiency testing. But it does provide a list of seven language proficiency tests recognized by ICRCC.

[11] The Respondent explains that the organizations who offer ICRCC approved language testing have systems in place to accommodate those with disabilities. The Respondent put into evidence a “Special Circumstance Arrangement” used by International English Testing System, one of the language testing providers. This Arrangement outlines the procedure for those taking the testing to follow to request special accommodation.

[12] Furthermore, ICRCC notes that it only receives the test scores. ICRCC is not advised if accommodation was afforded during language testing.

[13] Mr. Zaidi did not present any evidence that he requested accommodation for his medical conditions during the language testing. Nor did he offer any evidence that he was refused accommodation or that the accommodation he received (if any) was inadequate. In fact, there was no evidence on this issue provided by Mr. Zaidi. Given the absence of this evidence, his argument that he was not accommodated is without merit.

[14] Mr. Zaidi also submits that he has demonstrated a sufficient proficiency to function in English as evidenced by the fact he was able to successfully complete the immigration consultant training. Mr. Zaidi also references other court proceedings where he represented himself, apparently successfully, in English as further proof of his English language abilities. He argues this should be proof enough to meet the requirements of the ICRCC.

[15] Mr. Zaidi asks this Court to override the ICRCC language requirements and declare that he meets the language requirements. As a self-regulating body, ICRCC is not only able to, but is

required to, develop and enforce minimum eligibility requirements for those applying for membership. The language proficiency requirement is a preliminary or administrative step that must be successfully completed to become a RCIC. In the circumstances, this Court has no jurisdiction to override the language requirements as established by the ICRCC.

[16] Finally, in any event, the ICRCC has not made “a decision” which is subject to review by this Court pursuant to section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7.

IV. Conclusion

[17] None of the issues raised by Mr. Zaidi give this Court jurisdiction to provide any remedy. This judicial review application is therefore dismissed without costs.

JUDGMENT

THIS COURT'S JUDGMENT is that this judicial review is dismissed without costs.

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-743-16

STYLE OF CAUSE: ZAMIR UL HASAN ZAIDI v IMMIGRATION
CONSULTANT REGULATORY COUNCIL OF
CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 12, 2017

JUDGMENT AND REASONS: MCDONALD J.

DATED: FEBRUARY 6, 2017

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