

Federal Court



Cour fédérale

Date: 20191018

Docket: IMM-1123-19

Citation: 2019 FC 1307

Vancouver, British Columbia, October 18, 2019

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

HARINDER SINGH GREWAL

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Harinder Singh Grewal (the “Applicant”) seeks judicial review of a decision of an immigration officer (the “Officer”), dated January 30, 2019, refusing the Applicant’s application for a Post-Graduation Work Permit (“PGWP”) because it was submitted outside the 90-day eligibility period set out in the online Program Delivery Instructions, Study Permits: Post Graduation Work Permit Program (the “PDI”).

[2] The Applicant completed a program of general studies at Douglas College in New Westminster, British Columbia. On April 24, 2018, he applied for a PGWP, pursuant to the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”) and subparagraph 205(c)(ii) of the *Immigration Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[3] By a decision dated June 6, 2018, the Officer refused the application.

[4] The Applicant subsequently learned that Douglas College had provided the agents and employees of Immigration, Refugees and Citizenship Canada (“IRCC”), represented in this proceeding by the Minister of Citizenship and Immigration (the “Respondent”), with a letter dated January 11, 2018 that said the following:

Please be advised that the above named student has completed all program requirements to graduate with a **two year Diploma in General Studies** as of December 20, 2017. They will receive their credential at the 2018 Winter Graduation ceremonies being held on February 14 or 15, 2018. [Emphasis in original.]

[5] Douglas College subsequently provided a letter dated August 3, 2018 that said, in part, as follows:

The letter is to confirm the Harinder Singh Grewal received his Graduation Letter from Douglas College International Office on February 14, 2018, not on January 11, 2018 as originally considered.

[6] Mr. Dashang Narang on behalf of the Applicant, in a letter dated August 7, 2018, forwarded the Douglas College letter dated August 3, 2018, to IRCC and requested

reconsideration of the negative decision of June 6, 2018, since that decision was based on a “clerical mistake.”

[7] By a decision set out in a letter dated January 30, 2019, the reconsideration request was refused, again on the basis that the application was not submitted in a timely manner.

[8] The Applicant argues that the Officer’s decision is unreasonable.

[9] The Respondent takes a contrary view.

[10] The decision of the Officer, in dealing with an application for a work permit, is reviewable on the standard of reasonableness; see the decision in *Penez v. Canada (Minister of Citizenship and Immigration)*, 2017 FC 1001 at paragraph 16.

[11] According to the decision in *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, the standard of reasonableness requires that a decision be justifiable, transparent and intelligible, falling within a range of possible, acceptable outcomes that are defensible on the law and the facts.

[12] In my opinion, the decision does not meet the applicable legal test of reasonableness.

[13] The record is clear that Douglas College provided IRCC with wrong information. The Applicant provided correct information in a timely manner once that information was provided by the College.

[14] There is no question that Douglas College is accepted by IRCC as a “designated learning institution” for the purposes of the Act and the Regulations.

[15] In my opinion, the Officer did not consider the evidence submitted and the decision cannot stand.

[16] The application for judicial review is allowed, the decision of January 30, 2019 is set aside and the matter is remitted to a different officer for redetermination.

[17] There is no question for certification arising.

JUDGMENT in IMM-1123-19

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of January 30, 2019 is set aside and the matter remitted to a different officer for redetermination.

There is no question for certification arising.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1123-19

STYLE OF CAUSE: HARINDER SINGH GREWAL v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: OCTOBER 16, 2019

JUDGMENT AND REASONS: HENEGHAN J.

DATED: OCTOBER 18, 2019

APPEARANCES:

Harry Virk FOR THE APPLICANT

Il Hoon (Ezra) Park FOR THE RESPONDENT

SOLICITORS OF RECORD:

Liberty Law Corporation FOR THE APPLICANT
Abbotsford, British Columbia

Attorney General of Canada FOR THE RESPONDENT
Vancouver, British Columbia