

Federal Court



Cour fédérale

**Date: 20240110**

**Docket: IMM-12923-22**

**Citation: 2024 FC 34**

**Ottawa, Ontario, January 10, 2024**

**PRESENT: The Honourable Madam Justice Aylen**

**BETWEEN:**

**KAMYAR AHMADI AZARI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant seeks judicial review of the decision of an immigration officer [Officer] dated November 29, 2022, wherein the Officer concluded that the Applicant had failed to meet the criteria for the issuance of a work permit pursuant to the *Immigration and Refugee Protection Regulations*, SOR/2022-227 [*Regulations*] and the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].

[2] The Applicant is a citizen of Iran who applied for a work permit under the Temporary Foreign Worker Program with a positive Labour Market Impact Assessment [LMIA] in the high wage stream.

[3] By letter dated November 29, 2022, the Applicant was advised that his work permit was denied, with the Officer stating that they were not satisfied that the Applicant would leave Canada at the end of his stay, as stipulated by subsection 200(1)(b) of the *Regulations*, based on the following factors:

- The compensation (monetary or other) indicated in your job offer and your assets and financial situation are insufficient to support the stated purpose of travel for yourself (and any accompanying family member(s), if applicable).
- You do not have significant family ties outside Canada.

[4] Following the commencement of this application for judicial review, the Officer's notes as contained in the Global Case Management System [GCMS] were produced to the Applicant. The GCMS notes, which form part of the reasons for decision, provide as follows:

File reviewed. PA is a 29 single male seeking LMIA as a cabinet maker. Insufficient documents have been submitted to support his financial situation – such as bank statements/history of bank deposits. Based upon this information, PA is highly mobile. PA has provided insufficient evidence on file to satisfy me of his establishment in home country.

[5] The sole issue for determination is whether the Officer's decision was reasonable. When reviewing for reasonableness, the Court must take a “reasons first” approach and determine

whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified [see *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8]. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adenij-Adele v Canada (Minister of Citizenship and Immigration)*, 2020 FC 418 at para 11].

[6] While the Applicant has raised a number of issues on this application, I find that the determinative issue is the Officer's finding that the Applicant lacked significant family ties outside of Canada. The Officer provides no justification for this determination in the GCMS notes, which is problematic given that the Applicant's Family Information form filed as part of his work permit application lists his mother, father, sister and brother as family members living in Iran, with only one brother living in Canada. I find that the Officer's failure to address this evidence, which directly contradicts the Officer's determination, renders the Officer's decision unreasonable [see *Pirzada v Canada (Citizenship and Immigration)*, 2023 FC 835 at para 30, citing *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1999] 1 FC 53 at para 15; *Vavilov*, *supra* at para 128].

[7] In the circumstances, I find that the Officer's decision cannot be said to exhibit the requisite degree of justification, intelligibility and transparency required of a reasonable decision.

Accordingly, the application for judicial review shall be granted, the Officer's decision shall be set aside and the matter shall be remitted to a different officer for redetermination.

[8] No question for certification was raised and I agree that none arises.

**JUDGMENT in IMM-12923-22**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is granted.
2. The November 29, 2022 decision refusing the Applicant's application for a work permit is hereby set aside and the matter shall be remitted to a different officer for redetermination.
3. The parties proposed no question for certification and none arises.

“Mandy Ayles”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-12923-22

**STYLE OF CAUSE:** KAMYAR AHMADI AZARI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HEARD BY VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 10, 2024

**JUDGMENT AND REASONS:** AYLEN J.

**DATED:** JANUARY 10, 2024

**APPEARANCES:**

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