

Date: 20091110

Docket: IMM-1510-09

Citation: 2009 FC 1143

Ottawa, Ontario, November 10, 2009

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

MOHAMMAD-HASSAN BAGHERI-SADR

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Mr. Mohammad-Hassan Bagheri-Sadr, an experienced pilot, applied for permanent residence in Canada from Iran. In his application, he claimed proficiency in both English and French. In respect of his English skills, he supplied the results of a test recognized under Citizenship and Immigration Canada (CIC) guidelines. Regarding his proficiency in French, he filed results from a test conducted by Berlitz, an organization not recognized by CIC.

[2] The officer who reviewed Mr. Bagheri-Sadr's application gave him zero points for his French skills. As a result, the officer scored Mr. Bagheri-Sadr's application at 61 points, six points

below the threshold for success. Mr. Bagheri-Sadr submits that the officer should have considered the evidence he provided in support of his French language skills and awarded him at least some points in that category. He asks me to order another officer to reconsider his application.

[3] I can find no basis for overturning the officer's decision and must, therefore, dismiss this application for judicial review.

II. Analysis

[4] There is only one issue: Was the officer's decision unreasonable given her failure to consider the Berlitz language test?

[5] In order to be scored points for language proficiency, applicants must either file the results of a test from a designated body or provide other written evidence of their proficiency (*Immigration and Refugee Protection Regulations*, SOR/2002-227, s. 79(1)). Applicants are informed that test results from non-designated bodies will not be considered. However, immigration officers must consider other written evidence of proficiency, such as "official documentation of education and work experience in English, an explanation of how the applicant commonly uses English and a description detailing [his or] her training in English" (*Bellido v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 452). For example, an officer must consider an applicant's high school diploma showing high grades in English courses and a diploma from a language school indicating successful completion of a course of study in English (*Gidikova v. Canada (Minister of Citizenship*

and Immigration), 2007 FC 1178).

[6] Mr. Bagheri-Sadr submits that the officer erred by not considering his Berlitz test and by failing to explain why he should not be scored any points for his proficiency in French. In addition, he suggests that the officer should have considered his extensive experience as a pilot and inferred that he must have some level of proficiency in French enabling him to take off from, and land in, airports around the world.

[7] Mr. Bagheri-Sadr was specifically requested to provide official language test results to support his application. He failed to do so. As I read the Regulations, he had the option of obtaining official results (as he had done for his English skills) or providing some other written evidence of proficiency. The officer informed Mr. Bagheri-Sadr of the tests that were required as proof of language proficiency, yet he failed to obtain the necessary documentation.

[8] The officer stated that she reviewed the evidence on file but found that it was “insufficient to demonstrate that you meet the Canadian language benchmarks at the levels stated”. In the circumstances, this is an adequate explanation for not scoring Mr. Bagheri-Sadr any points for his French skills.

[9] Finally, Mr. Bagheri-Sadr had to provide official test results or other written evidence. It was not open to the officer merely to infer a level of proficiency in French based on Mr. Bagheri-Sadr’s flying experience.

III. Conclusion and Disposition

[10] In my view, Mr. Bagheri-Sadr was given a fair chance to supply proper documentation of his French language skills. He was specifically asked to provide an official test and invited to consult the applicable guidelines for more information. In rejecting his application, the officer explained why his evidence was insufficient. I cannot find that the officer's decision was unreasonable. I must dismiss this application for judicial review. No question of general importance arises.

JUDGMENT

THIS COURT'S JUDGMENT IS that:

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

Annex “A”

*Immigration and Refugee Protection
Regulations, SOR/2002-227*

*Règlement sur l’immigration et la protection des
réfugiés , DORS/2002-227*

Proficiency in English and French (20 points)

Compétence en français et en anglais (20 points)

79. (1) A skilled worker must specify in their application for a permanent resident visa which of English or French is to be considered their first official language in Canada and which is to be considered their second official language in Canada and must

79. (1) Le travailleur qualifié indique dans sa demande de visa de résident permanent la langue — français ou anglais — qui doit être considérée comme sa première langue officielle au Canada et celle qui doit être considérée comme sa deuxième langue officielle au Canada et :

(a) have their proficiency in those languages assessed by an organization or institution designated under subsection (3); or

a) soit fait évaluer ses compétences dans ces langues par une institution ou organisation désignée aux termes du paragraphe (3);

(b) provide other evidence in writing of their proficiency in those languages.

b) soit fournit une autre preuve écrite de sa compétence dans ces langues.

FEDERAL COURT
SOLICITORS OF RECORD

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**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

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