

Federal Court



Cour fédérale

**Date: 20160222**

**Docket: IMM-3036-15**

**Citation: 2016 FC 234**

**Toronto, Ontario, February 22, 2016**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**ZIQIANG CAI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The present Application concerns the June 15, 2015 rejection by an Immigration Officer (Officer) of the Applicant's application to immigrate to Canada under the Canada Experience Class (CEC) stream. The Applicant challenges the rejection for the reason that the Officer applied an overly narrow interpretation to the evidence submitted. For the reasons that follow, I find that the decision is unreasonable.

[2] Based on his full-time work experience from February 8, 2013 to the date of his application being April 30, 2014, through the assistance of Counsel, the Applicant applied as a Food Buyer under NOC 6222. The lead statement of the NOC and the main duties are as follows:

Retail and wholesale buyers buy merchandise for resale by retail or wholesale establishments and are usually responsible for the merchandising operations of retail or wholesale establishments. Retail and wholesale buyers who are supervisors and those who are assistants are included in this unit group.

Retail and wholesale buyers buy merchandise for resale by retail or wholesale establishments, review requirements of establishment and determine quantity and type of merchandise to purchase; study market reports, trade periodicals and sales promotion materials and visit trade shows, showrooms, factories and product design events; select the merchandise which best fits the establishment's requirements; interview suppliers and negotiate prices, discounts, credit terms and transportation arrangements; oversee distribution of merchandise to outlets and maintain adequate stock levels; establish and maintain contact with suppliers; may supervise the work of other retail buyers.

[3] In support of the application, the Applicant's employer supplied a reference letter the full content of which with respect to the duties performed is as follows:

Dear Sir/Madam:

Re: Employment Reference for Mr. Ziqiang CAI (DOB: April 22, 1989}

I have much pleasure in providing an employment reference letter for Mr. Ziqiang Cai who has been working for our food trading company as a Food Buyer from February 8, 2013 to the present moment. Mr. Cai is working full-time, 35 hours per week for an annual salary of \$28,800. Mr. Cai enjoys a two week paid vacation on an annual basis.

Under the supervision of the General Manager, Mr. Cai is performing the following duties:

- (1) Proactively pursue the best possible quality at the best price, in-season food items while maintaining strong relationships with suppliers and vendors;
- (2) Build the weekly food listing using a good variety of the best quality, in-season food items, whilst also attaining the desired initial and net profit margin;
- (3) Maintain and develop excellent relations with suppliers through daily communications and site visits;
- (4) Maintain a good selection of quality, seasonal items on an ongoing basis;
- (5) Provide weekly product report to General Manager (including net margin and quality report);
- (6) Provide information to warehouse and sales team about upcoming specials, new product varieties, and educational information that may be of importance or interest (including product sampling);
- (7) Contribute seasonal food product information for the Company's sales team to give customers insight into market information, price fluctuations, etc.
- (8) Responsible for Inventory Control and Quality Control;

Our food trading company specializes in providing food items to the Chinese, Vietnamese and Japanese restaurants as well as supermarkets in the Greater Toronto Area as well as in P.E.I, Newfoundland, New Brunswick and Nova Scotia area. Our company is expanding rapidly and was moved to the present location in November of 2013 in order to build a bigger warehouse to accommodate the ever-growing demands from our retailers.

Mr. Cai is a young and energetic person. He is hard-working and has good inter-personal skills. He responds to the food market quickly and is able to locate fresh, in-season and interesting products for our company. He proves himself to be an exceptional employee.

Should you require any additional information pertaining to Mr. Cai's employment, please do not hesitate to contact the undersigned at 647-886-1788.

(Applicant's Application Record, pp. 52 - 53)

[4] The Officer rejected the Applicant's application for the following reason:

I am not satisfied that you meet the lead statement and have been performing a substantial number of the main duties set out in the occupational NOC 6222 because you do not purchase merchandise for resale, review requirements, determine merchandise to purchase, visit trade shows and product design events, select merchandise for the establishment's requirements, interview suppliers and negotiate prices.

(Decision, p. 2)

[5] The detailed evidence supplied in the letter of reference clearly goes to establish that, with the exception of "visit trade shows and product design events" the requirements of the lead statement and a substantial number of the main duties specified in the NOC appear to be met. No reasons were provided by the Officer as to why the evidence was apparently not accepted. As a result, I find that the decision under review is unreasonable because it is unintelligible (see: *Dunsmuir v. New Brunswick* [2008] 1 S.C.R. 190, paragraph 47).

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the decision under review is set aside and the matter is referred back to a different immigration officer for redetermination.

There is no question to certify.

“Douglas R. Campbell”

---

Judge

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

**DOCKET:** IMM-3036-15

**STYLE OF CAUSE:** ZIQIANG CAI v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** FEBRUARY 19, 2016

**REASONS FOR JUDGMENT  
AND JUDGMENT:** CAMPBELL J.

**DATED:** FEBRUARY 22, 2016

**APPEARANCES:**

Marvin Moses FOR THE APPLICANT

Asha Gafar FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Marvin Moses FOR THE APPLICANT  
Moses Law Office, Law Chambers  
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of  
Canada