Federal Court  Cour fédérale

Date: 20220211

Docket: IMM-6809-19

Citation: 2022 FC 183

Ottawa, Ontario, February 11, 2022

PRESENT: Mr. Justice McHaffie

BETWEEN:

AMOS OLADIPO OLADIMEJI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The issue on this application for judicial review is whether Amos Oladimeji should have been assigned an additional 50 points in the assessment of his application for permanent residence under the Express Entry System as a member of the Canadian experience class. Mr. Oladimeji is a pastor who has been working in Waterloo, Ontario with The Redeemed Christian Church of God, Canada since February 2013. He argues he should have been assigned

the 50 points available to those with a "qualifying offer of arranged employment," a term defined in the *Ministerial Instructions respecting the Express Entry system*. An immigration officer with Immigration, Refugees and Citizenship Canada (IRCC) concluded Mr. Oladimeji did not meet the requirements for the 50 points, and maintained that position through two requests for reconsideration. The parties agree that the 50 points were the difference between Mr. Oladimeji qualifying for permanent residence under the Express Entry System and not qualifying.

[2] As explained in further detail below, I conclude the officer's decision was reasonable. Section 29 of the *Ministerial Instructions* gives a specific definition of "qualifying offer of arranged employment." Materially, the provision that Mr. Oladimeji says he meets requires an applicant to have an offer "made by an employer who is specified on [their] work permit." Mr. Oladimeji did not have a work permit specifying his employer. Even though he may have qualified for such a work permit when he received an open work permit in 2017, and even though he may not have required a work permit at all to work as a religious worker, Mr. Oladimeji did not meet the requirements of a "qualifying offer of arranged employment" as defined in the *Ministerial Instructions*. It was therefore reasonable for the officer to have concluded that Mr. Oladimeji did not qualify for the 50 points. I also conclude the process leading to the decision was fair, as Mr. Oladimeji had every opportunity to make his submissions and no adverse credibility finding was made.

[3] The application for judicial review is therefore dismissed.

II. Issues and Standard of Review

[4] Although Mr. Oladimeji phrased the issues somewhat differently, the issues he raises on this application are fundamentally the following:

A. Was the officer's decision denying the application for permanent residence unreasonable, because they failed to reasonably interpret and apply the *Ministerial Instructions* or failed to adequately consider the evidence regarding Mr. Oladimeji's circumstances?

B. Did the officer breach the duty of fairness by failing to give Mr. Oladimeji an opportunity to respond to their concerns?

[5] As the parties agree, the first of these issues goes to the merits of the officer's decision and is reviewable on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25. A reasonable decision is one that is transparent, intelligible, and justified. That is to say, it adequately explains the basis for the decision, is based on an internally coherent and rational chain of analysis, and is justified in relation to the facts and law that constrain the decision maker: *Vavilov* at paras 15, 84–86.

[6] The second issue, which goes to the fairness of the process leading to the decision, is reviewable on a standard that is akin to correctness, but essentially involves no standard of review: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35. On this standard, the Court asks whether the procedure was fair having regard to all of the circumstances: *Canadian Pacific* at para 54.

III. Analysis

A. *The decision was reasonable*

(1) The legislative and regulatory framework

[7] Division 0.1 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*] sets out a special scheme by which a foreign national may be invited to apply for permanent residence. Under this scheme, the foreign national submits an "expression of interest" by means of an electronic system, which is known as the Express Entry System: *IRPA*, s 10.1(3). If the Minister concludes based on the expression of interest that the applicant is eligible and ranks sufficiently highly, they will be invited to apply for permanent residence: *IRPA*, ss 10.1(1), 10.2(1). The process is governed by instructions given by the Minister under section 10.3 of the *IRPA*.

[8] Instructions given under section 10.3 may set out, among other things, applicable classes, eligibility criteria, the basis for ranking, the rank an applicant must occupy to be invited, and the number of invitations that will be issued: *IRPA*, ss 10.3(1)(*a*), (*e*), (*h*), (*i*), and (*j*). Significantly, subsection 10.3(5) states that the criteria set out in a ministerial instruction may be more stringent than in other areas of the *IRPA*:

Criteria provided for under other Divisions	**Critères prévus sous le régime d'autres sections**
(5) For greater certainty, an instruction given under subsection (1) may provide for criteria that are more stringent than the criteria or requirements provided for in or under any other Division of this Act regarding applications for permanent residence.	**(5)** Il est entendu que les instructions données en vertu du paragraphe (1) peuvent prévoir des critères plus sévères que les critères ou exigences prévus sous le régime de toute autre section de la présente loi relativement aux demandes de résidence permanente.
[Emphasis added.]	[Je souligne.]

[9] When an application for permanent residence is made pursuant to an invitation to apply under Division 0.1, a visa or other document will not be issued unless the applicant meets the criteria in the ministerial instruction and has the qualifications on the basis of which they were ranked for purposes of the invitation: *IRPA*, s 11.2(1).

[10] The Minister first issued *Ministerial Instructions respecting the Express Entry system* pursuant to section 10.3 in 2014. As required by subsection 10.3(4) of the *IRPA*, they were published in the *Canada Gazette*: *Ministerial Instructions Respecting the Express Entry System*, *Canada Gazette Part I*, Vol 148, Extra No 10. Since then, the instructions have been subject to various amendments over time. I will refer to the instructions in force at the time of Mr. Oladimeji's application as the *Ministerial Instructions*.

[11] The *Ministerial Instructions* stipulate a number of classes to which subsection 10.1(1) of the *IRPA* applies, including the "Canadian experience class" referred to in subsection 87.1(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*]. They also set out a "Comprehensive Ranking System" according to which points are assigned on the basis of

information given in an expression of interest. The Comprehensive Ranking System provides for a total of 1200 possible points based on 17 factors in four categories.

[12] At issue in this application is the allocation of 50 points for the factor of a "qualifying offer of arranged employment." This factor is set out in section 29 of the *Ministerial Instructions*, which is reproduced in its entirety in Appendix "A." Mr. Oladimeji contends that he was entitled to 50 points because he falls within subparagraph 29(2)(*a*)(iii) by reason of his employment as a religious worker. The relevant parts of section 29 of the *Ministerial Instructions* read as follows:

Points for qualifying offer of arranged employment	**Points pour l'offre d'emploi réservé admissible**
29 (1) If a foreign national has a qualifying offer of arranged employment, they may be assigned points as follows:	**29 (1)** L'étranger qui a une offre d'emploi réservé admissible peut se voir attribuer, selon le cas :
[…]	[…]
(b) 50 points, if the offer is any other qualifying offer of arranged employment.	**b)** 50 points, s'il s'agit de toute autre offre d'emploi réservé admissible.
Qualifying offer of arranged employment	**Offre d'emploi réservé admissible**
(2) A qualifying offer of employment is one of the following:	**(2)** Est une offre d'emploi réservé admissible :
(a) an *arranged employment* as defined in subsection 82(1) of the Regulations, if	**a)** l'*emploi réservé*, au sens du paragraphe 82(1) du Règlement, si au moins une des exigences suivantes est remplie :
[…]	[…]
(iii) the foreign national holds a valid work permit issued under	**(iii)** l'étranger est titulaire d'un permis de travail valide délivré

the circumstances described in paragraph 204(a) or (c) or section 205 of the Regulations, the offer is made by an employer who is specified on the work permit and the foreign national works for that employer and has accumulated at least one year of full-time work experience, or the equivalent in part-time work, over a continuous period of work in Canada for that employer;	dans les circonstances décrites aux alinéas 204a) ou c) ou à l'article 205 du Règlement, l'offre est faite par un employeur qui est mentionné sur son permis de travail, l'étranger travaille pour cet employeur et il a accumulé, de façon continue, au moins une année d'expérience de travail à temps plein au Canada ou l'équivalent temps plein pour un travail à temps partiel auprès de cet employeur;
[Emphasis added.]	[Je souligne.]

[13] In essence, the *Ministerial Instructions* stipulate that 50 points will be assigned if the foreign national has a "qualifying offer of arranged employment," which means an "arranged employment" as defined by subsection 82(1) of the *IRPR* that also meets the indicated criteria. In the case of subparagraph 29(2)(*a*)(iii), those criteria are (1) they hold a valid work permit under paragraph 204(*a*) or (*c*) or section 205 of the *IRPR*; (2) the offer is made by an employer specified on the work permit; (3) they work for that employer; and (4) they have accumulated at least one year of work experience in Canada for that employer. I note that although subsection 29(2) refers to a "qualifying offer of employment," it appears intended to refer to a "qualifying offer of arranged employment," which is what the section governs. This conclusion seems clear from the fact that "qualifying offer of employment" is not used as a term elsewhere in the *Ministerial Instructions*, from the heading of the subsection, and from the French version of the *Ministerial Instructions*, which uses the term "*offre d'emploi réservé admissible*" in all places.

[14] Paragraph 29(2)(*a*) of the *Ministerial Instructions* incorporates the definition of "arranged employment" found in subsection 82(1) of the *IRPR*. Section 82 falls within a series of provisions in the *IRPR* governing selection criteria for members of the federal skilled worker class: *IRPR*, ss 76–83. The section governs the points that will be awarded to a skilled worker for "arranged employment." That term is defined as follows:

Definition of *arranged employment*	**Définition de *emploi réservé***
82 (1) In this section, ***arranged employment*** means an offer of employment that is made by a single employer other than an embassy, high commission or consulate in Canada or an employer who is referred to in any of subparagraphs 200(3)(h)(i) to (iii), that is for continuous full-time work in Canada having a duration of at least one year after the date on which a permanent resident visa is issued, and that is in an occupation that is listed in Skill Type 0 Management Occupations or Skill Level A or B of the *National Occupational Classification* matrix.	**82 (1)** Pour l'application du présent article, ***emploi réservé*** s'entend de toute offre d'emploi au Canada pour un travail à temps plein continu — d'une durée d'au moins un an à partir de la date de délivrance du visa de résident permanent — appartenant au genre de compétence 0 Gestion ou aux niveaux de compétence A ou B de la matrice de la *Classification nationale des professions* présentée par un seul employeur autre qu'une ambassade, un haut-commissariat ou un consulat au Canada ou qu'un employeur visé à l'un des sous-alinéas 200(3)h)(i) à (iii).
[Emphasis added.]	[Je souligne.]

[15] The interaction between the *Ministerial Instructions* and three other provisions in the *IRPR*, namely subsection 82(2), paragraph 186(*l*) and paragraph 205(*d*), underlies Mr. Oladimeji's principal arguments on this application.

[16] Subsection 82(2) provides that ten points are to be awarded for arranged employment in one of four situations, described in paragraphs 82(2)(*a*) through (*d*). Paragraph 82(2)(*d*) in

particular specifies that the points are to be awarded where the skilled worker holds a valid work permit "or is authorized to work in Canada under section 186," and where various circumstances described in the other paragraphs do not apply.

[17] Section 186 of the *IRPR* sets out that a foreign national may work in Canada without a work permit in a variety of circumstances. Among these are foreign nationals who are "responsible for assisting a congregation or group in the achievement of its spiritual goals and whose main duties are to preach doctrine, perform functions related to gatherings of the congregation or group or provide spiritual counselling": *IRPR*, s 186(*l*).

[18] Finally, paragraph 205(*d*) of the *IRPR* provides that a work permit may be issued to a foreign national who intends to perform work that "is of a religious or charitable nature."

(2) Mr. Oladimeji's application and refusal

[19] Mr. Oladimeji is a pastor. He has been working for The Redeemed Christian Church of God, Canada since he arrived in Canada from Nigeria in February 2013. Between 2013 and early 2015, he was working in Canada without a work permit as he is entitled to pursuant to paragraph 186(*l*) of the *IRPR*.

[20] Mr. Oladimeji then spent two years between 2015 and 2017 studying to obtain a Master of Divinity, while still working part time with the same church. After graduating, he returned to full time work with the church, and applied for a new work permit. He remained exempt from

the requirement for a work permit under paragraph 186(*l*). However, in June 2017 he was issued a post-graduation work permit valid for three years.

[21] Mr. Oladimeji submitted an online expression of interest through the Express Entry System. Based on the information submitted, he was invited to apply for permanent residence under the Canadian experience class in early September 2018. The invitation was based on information provided by Mr. Oladimeji and included 50 points for "arranged employment."

[22] Mr. Oladimeji submitted his application for permanent residence as a member of the Canadian experience class on September 25, 2018. His application was refused on September 24, 2019. The primary reason for the refusal was that he was not awarded the 50 points for arranged employment. The officer reviewing the application noted that Mr. Oladimeji did not have a Labour Market Impact Assessment (LMIA), did not have a valid work permit issued based on an LMIA, and did not have an employer-specific work permit. The officer therefore concluded Mr. Oladimeji did not have a qualifying offer of arranged employment in accordance with subsection 29(2) of the *Ministerial Instructions*. As a result, his total point score dropped below the lowest ranking person invited to apply and he did not meet the requirements of section 11.2 of the *IRPA*.

[23] Mr. Oladimeji sought a reconsideration of this decision, referring to subsection 82(2) and paragraphs 186(*l*) and 205(*d*) of the *IRPR*. He argued that as a pastor, he was exempt from the requirement to obtain an LMIA and did not need an employer-specific work-permit or, indeed, any work permit. The request for reconsideration was refused. In a letter dated October 21, 2019,

the officer found there were insufficient reasons to re-open the application. The officer noted that Mr. Oladimeji's work experience was obtained on a "C43 post graduate open work permit" issued in June 2017, and not an employer-specific work permit. The officer noted that the offer of employment was not supported by a valid LMIA, that the employer was not specified on the work permit, and that Mr. Oladimeji did not hold a work permit issued under paragraphs 204(*a*) or (*c*) or section 205 of the *IRPR*.

[24] Mr. Oladimeji sought a second reconsideration of his application in October 2019, relying on the same provisions of the *IRPR*. His request noted that his work in Canada did not require an LMIA and argued that he was not required to work for an employer specified on his work permit in accordance with subparagraph 82(2)(*d*)(i) of the *IRPR*. Mr. Oladimeji included in his request a statement that when he sought a new work permit in 2017, he specifically requested that the name of his employer be written on his work permit, but was advised that what he qualified for was an open work permit.

[25] This request was again refused in the decision that is the subject of this application for judicial review. The refusal letter restated the prior reasons for refusal, noting that Mr. Oladimeji did not meet the criteria of section 29 of the *Ministerial Instructions* since he did not have a valid LMIA, his employer was not named on his work permit, and he did not hold a valid work permit issued under section 205 of the *IRPR*.

(3) The decision refusing the application was reasonable

[26] Mr. Oladimeji argues the refusal of his application, and in particular the denial of 50 points for arranged employment, was unreasonable. I cannot agree.

[27] As set out above, the Express Entry System is a specific program that is subject to the requirements designated in the *Ministerial Instructions*. The *Ministerial Instructions* set out the specific scoring criteria that apply to the program and, in particular, to foreign nationals in the Canadian experience class. Those criteria can be, and are, more stringent than the criteria applicable in other parts of the *IRPA* or the *IRPR*: *IRPA*, s 10.3(5).

[28] Importantly, under section 29 of the *Ministerial Instructions*, points are awarded not for any arranged employment, but for a "qualifying offer of arranged employment." What makes an offer a "qualifying offer" for the purposes of the section is set out specifically in subsection 29(2). It states that to qualify under subparagraph 29(2)(*a*)(iii), an applicant must have:

- an "arranged employment" as defined in subsection 82(1);
- a valid work permit issued under the circumstances described in paragraph 204(*a*) or (*c*) or section 205 of the *IRPR*;
- an offer made by an employer who is specified on the work permit; and
- accumulated at least one year of full-time work experience, or the equivalent in part-time work, in Canada for that employer and still work for that employer.

[29] The officer concluded that Mr. Oladimeji did not qualify under this section as he did not have a valid work permit issued under section 205 of the *IRPR*, and did not have an offer made by an employer who is specified on his work permit.

[30] It appears that the officer may have been incorrect with respect to the existence of a work permit issued under section 205. The first reconsideration refusal letter referred to a "C43 post graduate open work permit." To the Court's understanding, such a permit is issued pursuant to subparagraph 205(*c*)(ii) of the *IRPR*. Thus, while Mr. Oladimeji made arguments regarding his qualification for a permit issued under paragraph 205(*d*), which he did not have, it appears he may nonetheless have had a work permit issued under section 205.

[31] In any event, however, even if Mr. Oladimeji did have a work permit issued under section 205, he did not have an offer made by an employer who is specified on the work permit. He therefore did not meet the requirements of section 29 and the officer's conclusion that he did not qualify for permanent residence under this program was reasonable.

[32] Mr. Oladimeji effectively argues that since he was not required to have an employer-specific work permit, or indeed any work permit, the requirement for an offer made by an employer specified on the work permit should be considered met or inapplicable. He argues that he is working legally in Canada and that paragraph 186(*l*) cannot be ignored in assessing whether he has a qualifying offer of arranged employment. He therefore argues that the officer unreasonably failed to consider his particular circumstances as a religious worker when they

refused to award the 50 points on the basis that his offer of employment was not from an employer specified on his work permit.

[33] I disagree. The Minister is entitled to specify the particular criteria for which points will be awarded under the Express Entry System. The Minister has specified that to obtain the points available under section 29 of the *Ministerial Instructions*, the offer of employment must be from an employer specified on the work permit. This effectively means that those with an open work permit, or those who do not require a work permit under section 186 of the *IRPR*, cannot qualify for the 50 points. It is not the Court's role to second-guess the Minister's decision to include this requirement in the *Ministerial Instructions*.

[34] The officer effectively concluded that an open work permit or an exemption under section 186 of the *IRPR* does not create an exemption from the subparagraph 29(2)(*a*)(iii) requirement that the offer be from an employer specified on the work permit. Despite Mr. Oladimeji's arguments about reading the requirement in the context of section 186, I cannot conclude the officer's interpretation is unreasonable.

[35] In this regard, I agree with the Minister that Mr. Oladimeji's reliance on subsection 82(2) of the *IRPR* is misplaced. That subsection deals with the awarding of a different number of points in a different context. The Minister chose to incorporate into the *Ministerial Instructions* the definition of "arranged employment" in subsection 82(1). That definition stands alone and is not subject to subsection 82(2). The Minister chose not to incorporate the various criteria for the awarding of ten points under subsection 82(2), but to adopt a set of criteria that apply to the

awarding of 50 points under the Express Entry System. It is the criteria in the *Ministerial Instructions* that apply, not those in subsection 82(2). It would undermine the Minister's choice to adopt different criteria for purposes of the Express Entry System to simply import criteria from subsection 82(2).

[36] Mr. Oladimeji's reliance on the decision of this Court in *Singh* is similarly misplaced: *Singh v Canada (Citizenship and Immigration)*, 2007 FC 69. That case involved a Sikh priest who argued he should have been awarded the 10 points for arranged employment under subsection 82(2) of the *IRPR*: *Singh* at para 16. Justice Blais granted the application on the basis of some confusion in the Minister's guidelines and communications at that time: *Singh* at paras 22–26. However, in doing so he rejected the argument that occupations listed in section 186 have already been determined to have a neutral or positive effect on the labour market in Canada and that points should therefore be awarded even though the criteria in subsection 82(2) had not been met: *Singh* at paras 19–21.

[37] Contrary to Mr. Oladimeji's arguments, there is no indication the officer ignored his offer of employment or his status as a religious worker. Rather, the officer concluded that the employer who made that offer was not named on Mr. Oladimeji's work permit, a required criterion for the 50 points at issue. While Mr. Oladimeji may have preferred for an exception to this criterion to have been included in the *Ministerial Instructions* or to have been applied by the officer in light of his status under subsection 186(*l*) of the *IRPR*, the *Ministerial Instructions* do not provide for such an exception and it is not for the Court to impose one.

[38] Finally, I also cannot accept Mr. Oladimeji's argument that when he applied for a visa in 2017, he qualified to get a work permit under paragraph 205(*d*) and that this work permit could have specified his employer. Regardless of the work permits Mr. Oladimeji may or may not have qualified for in 2017, the work permit that he received was a post-graduation work permit that did not specify an employer. The decision to issue this work permit is not challenged before me. I also have no evidence establishing that Mr. Oladimeji applied for an employer-specific work permit or that he received an open work permit in error. The *Ministerial Instructions* include a specific criterion that only grants 50 points to an applicant who has an offer of arranged employment if that offer is from an employer specified on their work permit. As discussed above, these points are by definition not available to an applicant whose work permit does not specify their employer. There is nothing in the *Ministerial Instructions* that would allow a conclusion that the points should also be awarded to an applicant who qualified, but did not receive, an employer-specific work permit.

[39] I therefore conclude that the officer's conclusion that Mr. Oladimeji did not qualify for the 50 points available to an applicant who has a "qualifying offer of arranged employment" was reasonable.

B. *The decision was fair*

[40] In addition to challenging the substance of the decision, Mr. Oladimeji argues it was unfair because he was not given an opportunity to address the officer's concerns. I agree with the Minister that there was no unfairness, for two reasons.

[41] First, a visa officer is not obliged to provide an applicant with the opportunity to respond to concerns that arise directly from the *IRPA* and the *IRPR*: *Hassani v Canada (Citizenship and Immigration)*, 2006 FC 1283 at para 24. In this regard, I reject Mr. Oladimeji's contention that the officer's decision was based on an adverse credibility finding that required an opportunity to respond. Mr. Oladimeji's credibility was not the basis of the officer's conclusion. His not having an offer of employment from an employer listed on his work permit was the basis. This engaged no issue of credibility.

[42] Second, and in any case, Mr. Oladimeji made further submissions on two separate occasions in his requests for reconsideration, after knowing the officer's concerns. The officer considered these submissions and decided the requests for reconsideration on their merits. The contention that Mr. Oladimeji did not have an opportunity to respond to the officer's concerns is therefore untenable.

IV. Conclusion

[43] The application for judicial review is therefore dismissed. Neither party proposed a question for certification and I agree that none arises in the matter.

JUDGMENT IN IMM-6809-19

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

"Nicholas McHaffie"
Judge

APPENDIX "A"

Ministerial Instructions Respecting the Express Entry System

Points for qualifying offer of arranged employment

29 (1) If a foreign national has a qualifying offer of arranged employment, they may be assigned points as follows:

(a) 200 points, if the offer is for employment in an occupation contained in Major Group 00 of the *National Occupation Classification* matrix; or

(b) 50 points, if the offer is any other qualifying offer of arranged employment.

Points pour l'offre d'emploi réservé admissible

29 (1) L'étranger qui a une offre d'emploi réservé admissible peut se voir attribuer, selon le cas :

a) 200 points, s'il s'agit d'une offre pour un emploi dans une profession faisant partie du grand groupe 00 de la matrice de la *Classification nationale des professions*;

b) 50 points, s'il s'agit de toute autre offre d'emploi réservé admissible.

Qualifying offer of arranged employment

(2) A qualifying offer of employment is one of the following:

(a) an *arranged employment* as defined in subsection 82(1) of the Regulations, if

(i) the offer is supported by a valid assessment — provided by the Department of Employment and Social Development at the request of the employer or an officer and on the same basis as an assessment provided for the issuance of a work permit — that the requirements set out in subsection 203(1) of the Regulations with respect to the offer have been met,

(ii) the foreign national holds a valid work permit, the offer of

Offre d'emploi réservé admissible

(2) Est une offre d'emploi réservé admissible :

a) l'*emploi réservé*, au sens du paragraphe 82(1) du Règlement, si au moins une des exigences suivantes est remplie :

(i) l'offre d'emploi est appuyée sur une évaluation valide — fournie par le ministère de l'Emploi et du Développement social à la demande de l'employeur ou d'un agent, au même titre qu'une évaluation fournie pour la délivrance d'un permis de travail — qui atteste que les exigences prévues au paragraphe 203(1) du Règlement sont remplies à l'égard de l'offre,

(ii) l'étranger est titulaire d'un permis de travail valide délivré à la

employment is made by an employer for whom the foreign national currently works and who is specified on the work permit, the work permit was issued based on a positive determination made by an officer under subsection 203(1) of the Regulations with respect to the foreign national's employment with that employer in an occupation that is listed in Skill Type 0 Management Occupations or Skill Level A or B of the *National Occupational Classification* matrix and the assessment provided by the Department of Employment and Social Development on the basis of which the determination was made is not suspended or revoked, or

suite d'une décision positive rendue par un agent conformément au paragraphe 203(1) du Règlement à l'égard de son emploi dans une profession appartenant au genre de compétence 0 Gestion ou au niveau de compétence A ou B de la matrice de la *Classification nationale des professions* auprès de son employeur actuel, l'évaluation fournie par le ministère de l'Emploi et du Développement social sur laquelle l'agent a fondé sa décision n'est pas révoquée ou suspendue, l'offre est faite par son employeur actuel et celui-ci est mentionné sur son permis de travail,

(iii) the foreign national holds a valid work permit issued under the circumstances described in paragraph 204(a) or (c) or section 205 of the Regulations, the offer is made by an employer who is specified on the work permit and the foreign national works for that employer and has accumulated at least one year of full-time work experience, or the equivalent in part-time work, over a continuous period of work in Canada for that employer;

(iii) l'étranger est titulaire d'un permis de travail valide délivré dans les circonstances décrites aux alinéas 204a) ou c) ou à l'article 205 du Règlement, l'offre est faite par un employeur qui est mentionné sur son permis de travail, l'étranger travaille pour cet employeur et il a accumulé, de façon continue, au moins une année d'expérience de travail à temps plein au Canada ou l'équivalent temps plein pour un travail à temps partiel auprès de cet employeur;

(b) an offer of continuous full-time employment for a total duration of at least one year from the day on which a permanent resident visa is issued in a *skilled trade occupation* as defined in subsection 87.2(1) of the Regulations that is made to the foreign national by up to two employers, neither of which is an embassy, high commission or consulate in Canada or an employer

b) l'offre d'emploi à temps plein — pour une durée continue totale d'au moins un an à partir de la délivrance du visa de résident permanent — pour un *métier spécialisé*, au sens du paragraphe 87.2(1) du Règlement, présentée à l'étranger par au plus deux employeurs — autres qu'une ambassade, un haut-commissariat ou un consulat au Canada ou un employeur visé à l'un des sous-

referred to in any of subparagraphs 200(3)(h)(i) to (iii) of the Regulations if

(i) the offer is supported by a valid assessment — provided by the Department of Employment and Social Development at the request of one or two employers or an officer and on the same basis as an assessment provided for the issuance of a work permit — that the requirements set out in subsection 203(1) of the Regulations with respect to the offer have been met,

(ii) the foreign national holds a valid work permit, the offer is made by up to two employers who are specified on the work permit, the foreign national currently works for one of those employers, the work permit was issued on the basis of a positive determination by an officer under subsection 203(1) of the Regulations with respect to their employment with their current employer, the assessment by the Department of Employment and Social Development on which the determination is based is not revoked or suspended, and the offer is in a skilled trade occupation that is in the same minor group set out in the *National Occupational Classification* as the occupation specified on the work permit, or

(iii) the foreign national holds a valid work permit issued under the circumstances described in paragraph 204(a) or (c) or section 205 of the Regulations that specifies the employer or employers that made the offer, and the foreign

alinéas 200(3)h)(i) à (iii) du Règlement — si au moins une des exigences suivantes est remplie :

(i) l'offre d'emploi est appuyée sur une évaluation valide — fournie par le ministère de l'Emploi et du Développement social à la demande d'un ou de deux employeurs ou d'un agent, au même titre qu'une évaluation fournie pour la délivrance d'un permis de travail — qui atteste que les exigences prévues au paragraphe 203(1) du Règlement sont remplies à l'égard de l'offre,

(ii) l'étranger est titulaire d'un permis de travail valide délivré à la suite d'une décision positive rendue par un agent conformément au paragraphe 203(1) du Règlement à l'égard de son emploi, l'évaluation fournie par le ministère de l'Emploi et du Développement social sur laquelle l'agent a fondé sa décision n'est pas révoquée ou suspendue, l'offre est faite par au plus deux employeurs mentionnés sur son permis de travail pour un travail dans un métier spécialisé faisant partie du même groupe intermédiaire prévu à la *Classification nationale des professions* que le métier mentionné sur son permis de travail et l'étranger travaille pour un de ces employeurs,

(iii) l'étranger est titulaire d'un permis de travail valide délivré dans les circonstances décrites aux alinéas 204a) ou c) ou à l'article 205 du Règlement et sur lequel sont mentionnés le ou les employeurs qui ont fait l'offre et

national works for an employer specified on the permit and has accumulated a total of at least one year of full-time work experience, or the equivalent in part-time work, over a continuous period of work in Canada for the employers who made the offer.

l'étranger travaille pour un employeur mentionné sur son permis de travail et a accumulé auprès des employeurs qui lui ont présenté l'offre, de façon continue, au moins une année d'expérience de travail à temps plein au Canada ou l'équivalent temps plein pour un travail à temps partiel.

Loss of offer or inability to perform duties

(3) If the offer referred to in subsection (1) is revoked or ceases to be a qualifying offer of arranged employment or if the foreign national is unable to perform the duties of the employment or is unlikely to agree to perform them, the foreign national is no longer entitled to the points assigned under subsection (1) in respect of that offer and the total number of points assigned to the foreign national under the Comprehensive Ranking System is to be adjusted accordingly.

Perte de l'offre ou incapacité à exercer l'emploi

(3) Si l'offre d'emploi visée au paragraphe (1) est révoquée ou cesse d'être une offre d'emploi réservé admissible ou si l'étranger n'est plus en mesure d'exercer les fonctions de l'emploi ou s'il est vraisemblable qu'il n'acceptera pas de les exercer, il ne peut plus se voir attribuer les points prévus au paragraphe (1) à l'égard de cette offre d'emploi et les points qui lui ont été attribués dans le système de classement global sont ajustés en conséquence.

FEDERAL COURT

SOLICITORS OF RECORD

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