

Federal Court



Cour fédérale

**Date: 20250214**

**Docket: IMM-15961-23**

**Citation: 2025 FC 294**

**Ottawa, Ontario, February 14, 2025**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**ZHEFU ZHANG**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Zhefu Zhang, applied for a work permit under the Temporary Foreign Worker Program. He obtained a positive Labour Market Impact Assessment (“LMIA”) from Employment and Social Development Canada for work as a marketing coordinator in Calgary. An officer at Immigration, Refugees and Citizenship Canada (“the Officer”) refused his work permit application because they found the offer of employment to not be genuine. Mr. Zhang

asked that the decision be reconsidered and provided further documents about the employment offer. The Officer found that the new documents did not overcome their original concerns.

[2] Mr. Zhang challenges the Officer's work permit refusal. I agree with Mr. Zhang that the decision must be set aside. The Officer breached procedural fairness for not alerting Mr. Zhang that the credibility of his job offer was at issue. The reconsideration process did not resolve the fairness concern because it is unclear from the Officer's reasons if the matter was re-opened to consider the new evidence. The matter must go back to be redetermined by a different officer.

## II. Background and Procedural History

[3] Mr. Zhang applied for a work permit with the support of a positive LMIA in October 2023. Mr. Zhang's work permit application was refused because the Officer was not satisfied that the job offer letter was genuine. The Officer stated in the November 27, 2023 refusal:

...I have concerns that [Applicant] does not have a genuine offer of employment. I note that: [-] PA's offer of employment is a computer-generated, generically templated, plain text document consisting of no unique company logo, header and footer. The document did not contain any contact information other than the physical address, no phone number and email address.

[4] Two days after the refusal, Mr. Zhang asked that the decision be reconsidered on the basis of new evidence. Mr. Zhang provided: a letter of explanation from the employer, which included further contact information, and a letter from Mr. Zhang explaining the lengths that he had gone to in order to establish that the job offer was a genuine one.

[5] The following day, the Officer affirmed their refusal by stating the following:

[Applicant] (and their employer and rep's) response does [do] not overcome the original concerns noted in my refusal notes. Considering that they may have additional information to present, will advise [Applicant] to submit new application.

[6] For the sake of completion of the record, Respondent's Counsel acknowledged at the judicial review hearing that their memorandum of argument erroneously stated that Mr. Zhang had been interviewed by the Officer. There was no interview or procedural fairness letter.

### III. Analysis

[7] The Respondent argued that the job offer letter provided was so deficient that the Officer's finding was not a credibility finding but rather about the completeness of the application and therefore Mr. Zhang need not have been given an opportunity to respond to the concern.

[8] I am not persuaded. In my view, the Officer clearly made a credibility finding about Mr. Zhang's job offer. The Officer states that "I have concerns that PA does not have a genuine offer of employment" and then lists the concerns with the job offer letter provided. The Officer is making a clear finding that Mr. Zhang has provided a job offer letter that is not genuine. This is a credibility finding. It is well-established that in these circumstances, an applicant ought to have known the case they had to meet and be given a meaningful opportunity to respond to the credibility concern (*Talpur v Canada (Citizenship and Immigration)*, 2012 FC 25 at para 21; *Nguyen v Canada (Citizenship and Immigration)*, 2023 FC 1617).

[9] The Officer's fairness breach may have been resolved if Mr. Zhang was given an opportunity to respond in the reconsideration process. Two days after the refusal, Mr. Zhang was now aware of the Officer's credibility concerns and put forward further evidence to address the issues in the job offer letter identified by the Officer.

[10] As recently explained by Justice Ngo in *Boiles v Canada*, (*Citizenship and Immigration*), 2024 FC 1063 [*Boiles*], "the first stage of the reconsideration process is whether the officer will exercise their discretion and 'open the door to reconsideration'. The second step is to reconsider the decision on its merits if the officer so decides" (*Boiles* at para 21 citing *AB v Canada* (*Citizenship and Immigration*), 2021 FC 1206 at para 21).

[11] Based on the Officer's limited reasons, I am not able to determine whether the Officer reopened the matter to consider the new documents or whether the Officer refused to reopen the matter. The Officer's lack of justification renders the decision unreasonable in either scenario. It also means that the reconsideration process cannot cure the procedural breach because there was not a meaningful opportunity to address the credibility concerns.

[12] The ability of an applicant to apply again, as referenced by the Officer in their decision, does not absolve an officer of providing applicants with an opportunity to meaningfully respond to credibility concerns and to provide transparent, intelligible and justified reasons for both the initial decision and the decision of whether to re-open the case.

[13] The application for judicial review is allowed. Neither party raised a question for certification and I agree none arises.

**JUDGMENT in IMM-15961-23**

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

1. The application for judicial review is allowed;
2. The decision dated November 27, 2023 is set aside and sent back to be redetermined by a different officer;
3. On redetermination, the Applicant will be provided an opportunity to provide further evidence and submissions on his work permit application; and
4. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

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

**DOCKET:** IMM-15961-23

**STYLE OF CAUSE:** ZHEFU ZHANG v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION CANADA

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** FEBRUARY 3, 2025

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** FEBRUARY 14, 2025

**APPEARANCES:**

Gen Zha	FOR THE APPLICANT
Meenu Ahluwalia	FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Arkham Law Barristers and Solicitors Calgary, Alberta	FOR THE APPLICANT
Attorney General of Canada Calgary, Alberta	FOR THE RESPONDENT