

Federal Court



Cour fédérale

Date: 20250410

Docket: IMM-6811-24

Citation: 2025 FC 662

Toronto, Ontario, April 10, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

ABDOLHAMID REZAIE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Abdolhamid Rezaie, seeks judicial review of a decision made by an Immigration Officer [Officer] on April 2, 2024 [Decision] denying his application for a work permit extension [Extension Application] submitted under the Start-up Business Visa [SUV] class permanent resident application category, administrative code A77. The Officer refused the

Extension Application by reason that the Applicant failed to submit the necessary documentation to demonstrate his eligibility.

[2] The Applicant seeks judicial review of the Decision on the basis that the Officer erred in assessing his evidence which he argues satisfies the requirements under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] and *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Regulations]. The Applicant suggests that the Officer should have considered the evidence from his initial work permit [Initial Work Permit].

[3] For the reasons that follow, I am dismissing this application. I find that the Officer reasonably found that the Applicant had submitted an incomplete application that did not meet the requirements of the Act and the Regulations and the Officer cannot be faulted for failing to seek out old information contained in the Applicant's immigration file in order to meet the requirements.

II. Preliminary Issue

[4] The Respondent has brought a motion to dismiss this application on the basis that it is futile or moot by reason that since leave was granted for this application, the Applicant's underlying permanent residence application [PR Application] was refused by decision dated December 5, 2024 [PR Decision]. The PR Decision is now the subject of an outstanding application for leave and judicial review in IMM-467-25 filed on January 8, 2025.

[5] The Respondent submits that the Applicant's Extension Application is dependent on there being a pending permanent resident application, which means that even if the Applicant were to succeed on this application, an officer tasked with redetermining the matter would have no choice but to find the Applicant ineligible such that a redetermination would serve no useful purpose (citing *Gill v Canada (Citizenship and Immigration)*, 2008 FC 911 at paras 5-6).

Alternatively, the Respondent submits that the application herein should be dismissed as moot (*Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 at 353 [*Borowski*]).

[6] The Applicant denies that this application has been rendered futile, suggesting that his PR Application was refused *because* of the Decision herein, as the officer had concerns about the Applicant's intention and ability to conduct business and actively manage the business from within Canada. The Applicant urges that he will be prejudiced if he is not able to proceed with this application.

[7] The Court convened a case management call with counsel for the parties and offered to adjourn the hearing of this application pending a final determination of the PR Application. The parties declined this offer, and, accordingly, having heard and considered the parties' submissions on the motion at the outset of the hearing of this application, I have determined that it is in the interests of justice that the Respondent's motion be dismissed and this application be determined on its merits given the Applicant's argument regarding prejudice and the fact that there remains a live controversy between the parties (*Borowski* at 353).

III. Legislative Framework

[8] Subsection 98.01(2) of the *Regulations* provides the requirements for membership in the SUV class. Under these requirements, a foreign national must demonstrate that: (a) they have obtained a commitment made by one or more entities designated by the Minister of Citizenship and Immigration under subsection 98.03(1) of the *Regulations*, which include business incubators, angel investors and venture capital funds [Designated Entity], where the commitment is less than six months old on the date on which their application for a permanent resident visa is made and meets the requirements of section 98.04 of the *Regulations* [Commitment Certificate]; (b) they meet the necessary language requirements; (c) they have a certain amount of transferable and available funds unencumbered by debts or other obligations; and (d) they have started a qualifying business.

[9] Rule 205(a) of the *Regulations* allows members of the SUV class to apply for a work permit while their permanent residency application is pending. According to Immigration, Refugees and Citizenship Canada [IRCC] Program Delivery Instructions titled *Start-up business class permanent residence applicants [R205(a) – A77] – Canadian Interests – International Mobility Program*, dated January 30, 2024 [IRCC Instructions], an applicant must: (a) have received notification from a Designated Entity that a Commitment Certificate was issued; (b) have an application for permanent residence in the SUV class pending, which was submitted while the Commitment Certificate was valid; (c) intend to reside in a province or territory other than Quebec; (d) have sufficient liquid funds (separate from any investment funds) to meet the

low income cut-off for their family size for a minimum of 52 weeks; (e) meet the requisite language skills; and (f) be an essential member of the entrepreneurial team.

IV. Facts

A. *The Applicant's background*

[10] The Applicant is an Iranian citizen with a background in metallurgy and 37 years of experience in testing and research and development. He is one of four members of a group that incorporated the business, Enduroplus Cleanlabs [Company], in Canada on December 29, 2020. The Company is a start-up business whose goal is to provide cost-effective antiviral and antimicrobial coatings and formulations intended for use as sprays and pistols to inhibit microorganism growth. The Applicant is the Chief Operating Officer responsible for overall management of the Company and was a designated essential member of the group.

B. *The Applicant's initial work permit*

[11] The Applicant applied for the Initial Work Permit based on his permanent resident application as a member of the SUV class under Rule 205(a) of the *Regulations*. The Initial Work Permit was supported by a Commitment Certificate – Letter of Support [Commitment Certificate] from a Designated Entity. The Applicant also provided a business plan for the Company and proof of funding information for the Company.

[12] The Initial Work Permit issued and was valid for one year starting February 21, 2023. The Applicant entered Canada on May 25, 2023.

[13] After the Initial Work Permit expired on February 21, 2024, the Applicant submitted the Extension Application for an additional two years under the same category.

C. *The Decision refusing the Applicant's Extension Application*

[14] The Officer reviewed the Applicant's Extension Application and determined that the Applicant did not meet the requirements of the *Act* or the *Regulations* by reason that: (i) the Applicant's Commitment Certificate expired on October 1, 2021; (ii) the Applicant failed to provide proof of the Company's viability; (iii) the Applicant submitted a personal bank account statement showing a balance that is less than the minimum funds required; (iv) the Applicant did not provide proof of the investment amount they already put towards the business, nor evidence of investment funds received or that the funds are transferable, available and unencumbered; and (v) the Applicant did not provide a business plan to allow for an assessment of the progression and future activities of the Company.

V. Issues and Standard of Review

[15] The Applicant has raised the following issues:

- A. Did the Officer err in refusing the Applicant's Extension Application by reason that the Officer believed that the Applicant would not leave Canada at the end of his work permit?
- B. Did the Officer err in considering that the Applicant's Commitment Certificate had expired?
- C. Did the Officer err in finding that the Extension Application did not meet the requirements of the *Act* and the *Regulations*?

[16] All of these issues go to the merits of the Decision and are subject to review on a standard of reasonableness as established in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

[17] A reasonable decision is one that is based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrain the decision maker (*Vavilov* at para 85). Judicial review is not an exercise in redetermining the underlying decision, nor is it a chance for a reweighing or reassessment of the evidence that was before the decision maker (*Vavilov* at paras 75, 83, 125).

VI. Analysis

A. *No error in the Officer's basis for refusal*

[18] The Applicant points to the Decision which states:

Based on your application and accompanying documentation that you have provided, I have carefully considered all information and I am not satisfied that you meet the requirements of the Immigration and Refugee Protection Act and Regulations. Your application as requested is therefore refused.

[X] Persons wishing to extend a work permit in Canada must satisfy an officer that they:

- have complied with all conditions imposed on their entry;
- will leave Canada by the end of the period authorized for their stay; and
- are not in a category of persons inadmissible to Canada under the Immigration Act.

Based on [a] careful review of the information and documentation supporting your application, I have concluded that you do not meet the requirements of the Immigration and Refugee Protection Act and Regulations.

[19] The Applicant contends that it is a reviewable error for the Officer to have decided the Applicant's Extension Application even in part, on the basis that the Officer did not believe the Applicant would leave Canada at the end of his authorized stay. The Applicant submits that the Decision shows that the Officer did not appreciate that the very goal of a work permit in the SUV class is to work in Canada to facilitate the establishment of a business while a permanent residence application is pending (citing *Karimi v Canada (Citizenship and Immigration)*, 2023 FC 411 at paras 17-18).

[20] I agree with the Respondent that a reasonable reading of both the Decision and the Global Case Management System [GCMS] notes that accompany it can leave no doubt that the only basis upon which the Officer made the Decision was the Applicant's failure to meet the eligibility requirements under the *Act* and the *Regulations*.

B. *No error in considering that the Applicant's Commitment Certificate was not valid*

[21] The GCMS notes state:

Client has submitted a Start-up business class commitment certificate – Letter of Support (IMM 5766 (PDF) that expired on 01 Oct 2021. As per PDI, this document must be valid at the time the work permit application is received.

[22] The Applicant submits that the Officer erred in holding that the Commitment Certificate had to be valid as of the Extension Application date instead of the permanent resident application date. He points to the IRCC Instructions which state that to be eligible for a SUV class work permit, an applicant should have an application for *permanent residence* in the start-up business class pending, which was submitted while the commitment certificate *was valid*. The Applicant says his application was compliant as his permanent residence application was filed on September 8, 2021 and his Commitment Certificate was valid at that time.

[23] The Respondent does not dispute this. However, the Respondent argues that there is no separate set of eligibility requirements for a work permit extension, which means the Applicant was required to meet the conditions for a work permit, which necessarily requires a current certificate attesting to the fact that the Applicant is essential and that there are urgent reasons for the Applicant to be in Canada prior to obtaining permanent residence.

[24] I agree with the Respondent. The IRCC Instructions referred to by the Officer (“PDI” or Program Delivery Instructions) state:

With the application for a work permit, officers should be satisfied that they have the following documentary evidence to make an assessment:

- A completed Start-up business class commitment certificate – Letter of support (IMM5766 (PDF, 1983 KB)) from the designated entity supporting their permanent resident application that:
 - is valid at the time the *work permit application* is received

- confirms that the applicant is essential to the start-up business
- clearly indicates why there is an urgent business reason for the applicant to enter Canada and work prior to obtaining permanent residence...

[Emphasis added]

[25] I find therefore that the Officer reasonably found that without a renewed Commitment Certificate, the Applicant had not satisfied the requirements under the *Regulations*.

C. *No error in assessing the completeness of the Extension Application*

[26] The Officer's GCMS notes state:

The company was incorporated in May 2022. Client has not provided the proof of the company operation viability such as the company bank statements, financial statements and operations accounts to demonstrate transactions that occurred.

Client submitted a personal RBC account that shows a balance of \$17,926.36, which is less than the minimum money required for family size (only client in this case).

Client has not provided proof of investment they already put towards the business. No evidence of investment funds received or that these funds are transferrable, available and unencumbered.

[27] The Applicant submits that the Officer erred in not referring to the proof of funds as filed in the Applicant's Initial Work Permit application. That evidence included funds in the amount of \$66,890.91 at Bank Mellat and Saman Bank, a title deed and an appraisal report on his

property in Iran. The Applicant submits that the Officer's failure to account for this evidence renders the Decision unreasonable.

[28] The Applicant's reliance on documentation supporting his Initial Work Permit application is misplaced. The Federal Court has held that an officer is under no duty to search for information in an applicant's immigration history even if directed to it (*Almadhoun v Canada (Citizenship and Immigration)*, 2024 FC 193 at para 21). As the Respondent points out, without updated business account information from the banks, there is no way of knowing the availability and liquidity of the funds, which was the Applicant's onus to demonstrate. Moreover, the Applicant did not challenge the Officer's finding that the Applicant's personal bank statements did not meet the minimum requirements.

VII. Conclusion

[29] I find that the Officer reasonably found that the Applicant failed to submit an Extension Application that meets the requirements of the *Act* and the *Regulations*, and the Decision is justified on the facts and the law that constrained the Officer.

JUDGMENT in IMM-6811-24

THIS COURT'S JUDGMENT is that:

1. The Respondent's motion to dismiss is dismissed;
2. The application for judicial review is dismissed; and
3. There is no question for certification.

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6811-24

STYLE OF CAUSE: ABDOLHAMID REZAIE v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF ZOOM VIDEOCONFERENCE

DATE OF HEARING: APRIL 7, 2025

JUDGMENT AND REASONS: WHYTE NOWAK J.

DATED: APRIL 10, 2025

APPEARANCES:

Afshin Yazdani	FOR THE APPLICANT
Amina Riaz	FOR THE RESPONDENT

SOLICITORS OF RECORD:

YLG Professional Corporation Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT