

Federal Court



Cour fédérale

Date: 20250722

Docket: IMM-16529-23

Citation: 2025 FC 1313

Ottawa, Ontario, July 22, 2025

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

WANGCHEN LI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Wangchen Li, applied for a work permit to work as an administrative officer at a company in Calgary. Ms. Li's family – her husband and child – also applied for permits to accompany her to Canada. An officer at Immigration, Refugees and Citizenship Canada (the "Officer") refused Ms. Li's work permit application and her family's applications. The challenges to the family's applications (IMM-16526-23 and IMM-16528-23) are not before

me because they were held in abeyance pending the judicial review of Ms. Li's work permit refusal.

[2] Ms. Li is a citizen of China. In August 2023, a company in Calgary obtained a positive Labour Market Impact Assessment ("LMIA") for the position of an administrative officer. Verbal and written English was listed as a requirement for the position. In September of 2023, Ms. Li received an offer of employment for the administrative officer position at the Calgary company. That same month, Ms. Li applied for an employer-specific work permit. Ms. Li included with her application her 2016 Certificate of her four-year bachelor's degree specializing in English, as well as her International English Language Testing System ("IELTS") results, that indicated she had an overall band score of 5.5.

[3] The Officer relied on two grounds to refuse the application: i) taking into account the duties of the job, Ms. Li's language ability (with an overall IELTS score of 5.5) was not at the level required to perform the job; and ii) because her husband and child were going to be accompanying her, her family ties to China were weakened. The parties agree, as do I, that I ought to review the substance of the Officer's decision on a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 23).

[4] I note that in the refusal letter, the Officer also lists as a ground of refusal "your immigration status outside your country of nationality or habitual residence." In my view, the issue of immigration status was not used as a basis to refuse Ms. Li's application and its inclusion in the refusal letter was an administrative error. This issue is not further explained in

the GCMS notes that form part of the Officer's reasons. It is clearly not relevant to Ms. Li's circumstances as she is a citizen of China who has been living in China.

[5] In my view, the determinative issue on judicial review is the Officer's finding that Ms. Li could not adequately perform the work she was seeking to do in Canada. The requirement that an officer be satisfied that an individual can perform the work sought is found in paragraph 200(3)(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. This necessarily can include a person's ability to communicate in a language required for the job (See, for example, *Sen v Canada (Citizenship and Immigration)*, 2022 FC 777).

[6] The Officer's finding on language ability is determinative because paragraph 200(3)(a) of the IRPR states that an officer "shall not issue a work permit to a foreign national if there are reasonable grounds to believe that the foreign national is unable to perform the work sought". It is also the primary basis on which the application was refused.

[7] The Officer's reasons for refusal are limited to the following:

...Roles and responsibilities as laid out in Cda contract require communicating on behalf of managers with clients, vendors, and other external parties; preparing reports; assisting with the onboarding process for new employees, managing employee records and updating HR databases; etc. Taking into consideration the above duties to be accomplished by the applicant and the IELTS results (overall 5.5 modest user), I am not satisfied that ... [the Applicant] will be able to perform the job at the level required. Weakened family ties to ... [country of nationality] as family is travelling together. Not satisfied they will depart at the end of their authorized stay. Refused.

[8] Ms. Li argues that while the Officer makes reference to some of the job duties in her prospective employment in Canada, they do not explain why her IELTS score demonstrates her level is not sufficient to be able to perform the duties that they have listed.

[9] I agree with Ms. Li.

[10] Certainly, if Ms. Li's IELTS score was lower, it may have been sufficient to list the expected duties and the level obtained on the language test as a basis to find she could not perform the work. But given Ms. Li's score, and that neither the prospective employer nor the LMIA indicated a specific level of language proficiency, more had to be done to explain why it is in the Officer's view a person who had obtained an overall score of 5.5 on their IELTS test would not be able to perform the duties listed (*Vavilov* at paras 127-128).

[11] Moreover, the Officer makes no reference to Ms. Li's bachelor's degree in the English language. This is potentially relevant to Ms. Li's language ability and should have been addressed by the Officer (*Vavilov* at para 126).

[12] As the language ability issue was the principal basis on which the application was refused and was determinative, and I have found that determination to be unreasonable, it is unnecessary to address the Officer's other finding relating to "weakened family ties" in Ms. Li's home country.

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

JUDGMENT in IMM-16529-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The decision dated November 3, 2023 is quashed and sent back to be redetermined by a different decision maker;
3. The Applicant should be given an opportunity to provide further submissions and/or evidence on redetermination; and
4. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-16529-23

STYLE OF CAUSE: WANGCHEN LI v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: APRIL 22, 2025

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: JULY 22, 2025

APPEARANCES:

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