

Federal Court



Cour fédérale

Date: 20250911

Docket: IMM-11617-24

Citation: 2025 FC 1507

Ottawa, Ontario, September 11, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

FATEMEH ZIAEE

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Fatemeh Ziaee seeks judicial review of a decision by a visa officer [Officer] to refuse her application for a temporary work permit. The Officer was not satisfied that she could fulfill the requirements of the job she had been offered in Canada, or that she would leave Canada at the end of her authorized stay.

[2] For the reasons that follow, the Officer's decision was reasonable. The application for judicial review is dismissed.

II. Background

[3] Ms. Ziaee is a citizen of Iran. She was offered a job as a graphic designer and layout artist by Exir Style Enterprises Inc in North Vancouver, British Columbia.

[4] In August 2023, Ms. Ziaee submitted a work permit application in accordance with National Occupation Classification [NOC] 52120 as a graphic designer and layout artist. In support of her application, she provided a positive Labour Market Impact Assessment [LMIA], reference letters from previous employers, transcripts from her undergraduate degree in sculpture and master's degree in visual communication, information regarding family members in Iran, and financial documentation.

[5] The Officer refused the application on May 15, 2024.

III. Decision under Review

[6] The officer's notes in the Global Case Management System [GCMS], which form a part of the decision under review, read as follows:

[...]

The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application.

Based on the documentation submitted, I am not satisfied that the applicant will be able to adequately perform the proposed work given their:

- Insufficient experience/education.

- Applicant is applying for position as a Graphic Designer.

- Applicant has a Bachelor's Degree in Sculpture, and Master's in Visual Communication, which focuses more on the broader aspects of design theory and production.

- Applicant's CV indicates she has worked as an Art Director, Commercial Photographer, Graphic Designer since 2013, but has not provided sufficient evidence to demonstrate capabilities in the requirements specific to commercial/residential *[sic]* graphic design, as required for the job, which would require stronger emphasis on the technical and practical aspects of design. The company in Canada's focus is on Italian Kitchen Cabinets, Furtinutre *[sic]* and an Interior Store.

Specifically, the applicant has not provided sufficient evidence to demonstrate they have the expertise to work and supervisor *[sic]* other graphic designers in a commercial environment.

- As per the NOC, 52120:

Creative ability and artistic talent, as demonstrated by a portfolio of work, are required for graphic designers and illustrators. A university degree in visual arts with specialization in graphic design, commercial art, graphic communications or cartooning or completion of a college diploma program in graphic arts is required. Experience or training in multimedia design at a post-secondary, college or technical institution may be required.

Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay.

For the reasons above, I have refused this application.

IV. Issue

[7] The sole issue raised by this application for judicial review is whether the Officer's decision was reasonable.

V. Analysis

[8] The Officer's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (Vavilov at para 100).

[9] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (Vavilov at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[10] Before issuing a work permit, a visa officer must be satisfied that (1) the applicant will leave Canada by the end of the period authorized for their stay, and (2) there are no reasonable grounds to believe that the applicant is unable to perform the work in question (*Immigration and Refugee Protection Regulations*, SOR/2002-227, ss 200(1)(b) & 200(3)(a)). Both conditions must be satisfied (*Naderiboroujeni v Canada (Citizenship and Immigration)*, 2024 FC 684 at para 6).

[11] Ms. Ziaee says that the Officer's decision was unreasonable for two reasons.

[12] First, Ms. Ziaee argues that the Officer failed to consider dual intent in concluding that her application was inconsistent with a temporary stay (citing *Carciu v Canada (Citizenship and Immigration)*, 2023 FC 809).

[13] Ms. Ziaee stated in her application that "she has no plan or intention to consider applying for permanent residency later in Canada". The Officer cannot be faulted for failing to consider Ms. Ziaee's possible dual intent when applying for a temporary work permit, particularly when she stated explicitly that she had no intention of seeking permanent residence at the end of her authorized stay.

[14] Furthermore, a foreign national seeking to enter Canada is presumed to be an immigrant, and it is up to the applicant to rebut this presumption (*Obeng v Canada (Citizenship and Immigration)*, 2008 FC 754 at para 20). A finding that an applicant will not leave Canada at the end of an authorized stay appears to be standard practice when an application for a temporary work permit is refused.

[15] Second, Ms. Ziaee says the Officer's finding that she could not perform the work sought was unreasonable in light of the record. Specifically, she argues that: (1) her master's degree and course work were more than adequate to satisfy the requirements of the LMIA; (2) the description of the job she had been offered in Canada was nearly identical to the duties she had

performed in her previous jobs in Iran; and (3) her application demonstrated many years of experience working in a commercial environment as a graphic designer with supervisory duties.

[16] The applicable NOC requires a specific kind of degree:

Employment requirements

A university degree in visual arts with specialization in graphic design, commercial art, graphic communications or cartooning or completion of a college diploma program in graphic arts is required.

[17] While not binding instruments, NOC requirements and LMIA's are guidelines to assist visa officers when exercising their discretion (*Kaur v Canada (Citizenship and Immigration)*, 2024 FC 1789 at para 30; *Singh v Canada (Citizenship and Immigration)*, 2022 FC 80 at para 9). It was reasonable for the Officer to rely on the educational requirements specified in the NOC, and find that Ms. Zaiee's formal qualifications lacked the requisite specialization in graphic design, commercial art, graphic communications, cartooning or graphic arts.

[18] The letter confirming Ms. Zaiee's employment history described her previous duties in general terms and offered little in the way of particulars. She submitted an extensive portfolio of her previous work, but it was unclear what role she had played in the designs that were depicted.

[19] As Justice René LeBlanc observed in *Sulce v Canada (Citizenship and Immigration)*, 2015 FC 1132 [*Sulce*] at paragraph 10, it is incumbent upon an applicant for a temporary work

permit to provide all relevant supporting documentation and sufficient credible evidence to satisfy a visa officer that she can fulfill the job requirements. The applicant must put her best case forward, and cannot expect the visa officer to expend time or energy attempting to make sense of a deficient or unclear application. Visa applicants do not have an unqualified right to enter Canada, and the level of procedural fairness is low.

[20] It is possible that Ms. Zaiee possesses the necessary qualifications and experience to perform the functions of the job she was offered in Canada. However, as reflected in the Officer's GCMS notes, her application did not adequately explain how her educational and employment history demonstrated she was capable of meeting the requirements of the LMIA and applicable NOC.

[21] The refusal of Ms. Zaiee's application is not in itself a severe consequence, as she retains the ability to reapply (*Sulce* at para 10).

VI. Conclusion

[22] The application for judicial review is dismissed. Neither party proposed that a question be certified for appeal.

JUDGMENT

THIS COURT’S JUDGMENT is that the application for judicial review is dismissed.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11617-24

STYLE OF CAUSE: FATEMEH ZIAEE v MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: AUGUST 13, 2025

JUDGMENT AND REASONS: FOTHERGILL J.

DATED: SEPTEMBER 11, 2025

APPEARANCES:

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Meenu Ahluwalia	FOR THE RESPONDENT

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