

Federal Court



Cour fédérale

Date: 20250916

Docket: IMM-9942-24

Citation: 2025 FC 1526

Toronto, Ontario, September 16, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

SUKHWINDER SINGH HAYER

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant seeks judicial review of a decision refusing his application for a work permit under the Temporary Foreign Worker [TFW] program.

[2] For the following brief reasons, this application will be granted.

II. BACKGROUND

A. *Facts*

[3] The Applicant, Sukhwinder Singh Hayer, is an Indian citizen. He lives with his parents in Barmalipur, Punjab. His only sibling lives in Australia.

(1) LMIA Application

[4] On March 3, 2024, the Applicant applied to Immigration, Refugees and Citizenship Canada [IRCC] for a permit to work as a Floor Covering Installer at Hardwood Giant in Brampton, Ontario under the TFW program.

[5] The Applicant submitted the following supporting documents with his application: an offer of employment and positive Labour Market Impact Assessment [LMIA] from Hardwood Giant, dated November 30, 2023; a letter of employment and resume showing 8 years of employment as a Floor Covering Installer and Floor Covering Installer Supervisor in India; transcripts, his diploma, and a World Education Service credential assessment for his Bachelor of Arts degree; and his IELTS test report.

(2) Past Work Permit Application

[6] The Applicant previously applied for a Canadian work permit in December 2023. IRCC refused this application in March 2024.

(3) May 2024 Refusal

[7] On May 2, 2024, IRCC sent the Applicant a refusal letter. In the letter, the only reason for the refusal was that the officer was not convinced that the Applicant could adequately perform the work he sought.

[8] The officer's notes, as entered into the Global Case Management System [GCMS], are somewhat more detailed:

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

Applicant is 28 years old, being offered a position as a Floor covering installer-2021 NOC 73113 at 2184372 Ontario Inc. for 2 years. Applicant states that he has been a construction supervisor at Wisteria Housing Pvt. Ltd since 2016. LOE from the current employer on file noted. However, there is limited supporting documents to substantiate the stated working experience on file. Based on the information on file. I am not satisfied that the applicant will be able to adequately perform the proposed work.

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.

III. ISSUES

[9] The Applicant asserts that the visa officer erred in concluding that he would not be able to perform his work. He further argues that procedural fairness required the officer to provide him with an opportunity to respond to any concerns. It is not a matter of dispute that the standard of review in respect of the first issue is reasonableness. As I have found that the decision under review was not reasonable, I need not consider the question of procedural fairness.

IV. ANALYSIS

A. *Preliminary Matter: Evidence Contained in the Record that Was Not Before the Decision-Maker*

[10] The Respondent submits that various documents included in the Applicant's Record on judicial review were not before the original decision-maker and that, as such, these documents should not be considered. I agree. The Applicant has not provided submissions as to the admissibility of the documents in question. On my own review of them, I do not find that they meet any of the exceptions to the general rule that the record on judicial review should be confined to those documents that were before the original decision-maker.

B. *The Decision Was Unreasonable*

[11] As noted above, the officer refused the work permit application because the Applicant failed to establish that he would be able to adequately perform the proposed work.

[12] Respectfully, this conclusion is incompatible with the evidence in the record. The Applicant provided a resume that mentioned his experience as a carpet installer. While the resume is somewhat generic in nature, it does indicate that the Applicant has been working as a floor covering installer and as a supervisor in floor covering installation for roughly eight years. More importantly, the Applicant also provided a letter from his employer in India that confirmed his many years of experience as a floor covering installer and set out the specific job duties that he has performed since 2016, which include:

- Inspect, measure, and mark surfaces to be covered.
- Resolve work problems and recommend measures to improve productivity and product quality.
- Supervise, coordinate, and schedule the activities of related apprentices, helpers, and laborers.
- Measure, cut, and fasten underlay and underpadding.
- Measure, cut, and install carpeting on floors.
- Measure, cut, and install resilient floor coverings.
- Prepare and install hardwood floors.
- Inspect and repair damaged floor coverings.
- Conduct moisture, pH, temperature, and other tests before flooring installations.
- Train or arrange for training.

[13] Respectfully, it is difficult to conceive what evidence the Applicant could have provided that would more squarely have documented his experience as a floor covering installer. Put differently, there is simply no rational chain of analysis connecting the evidence (that the Applicant has worked in floor covering installation for eight years) to the conclusion that he had not established that he would be able to perform the work of a floor covering installer.

[14] The Respondent argues that the officer's decision was reasonable because the Applicant failed to provide salary slips and bank statements, as required by the publicly available instructions for work permit applicants from India. This may indeed be the case, but respectfully, it was not indicated in the officer's decision as a basis for refusing the application.

[15] It *may* be that the Applicant's failure to provide these documents was a factor in the decision under review, because the requirement to submit these documents is a published policy of the IRCC office (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 94 [*Vavilov*]). But even assuming this to be the case, there remains a fundamental gap in the decision because the officer failed to provide the actual reason for the refusal. This is more than a superficial or peripheral flaw; it goes to the heart of the decision's transparency, intelligibility, and justification (*Vavilov* at para 100).

[16] Beyond this, it is not apparent how either bank statements or pay slips from the Applicant's current employer (which appears to be a general housing company) would in any way help to substantiate the Applicant's ability to perform the work of a floor covering installer. If there was doubt as to whether the Applicant had indeed worked for the company in the period specified, this doubt was not articulated in the Officer's notes.

[17] I should add that if the Applicant did indeed fail to provide required documents in support of his application, this omission *may* have provided a sufficient basis on its own to reject his work permit application: *Adepoju v. Canada (Citizenship and Immigration)*, 2024 FC 2014 at paras 16-17. But as noted above, this was not the rationale provided by the officer, and the Court is not willing, in these circumstances, to assume that it played a role in the officer's determination.

V. CONCLUSION

[18] For the above reasons, this application for judicial review is granted. There is no question to certify.

JUDGMENT in IMM-9942-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The matter is remitted to a new decision-maker for reconsideration.
3. No question of general importance is stated.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9942-24

STYLE OF CAUSE: SUKHWINDER SINGH HAYER v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 8, 2025

JUDGMENT AND REASONS: GRANT J.

DATED: SEPTEMBER 16, 2025

APPEARANCES:

Satinder Pal Singh	FOR THE APPLICANT
Aneta Bajic	FOR THE RESPONDENT

SOLICITORS OF RECORD:

SPS Law Office Barrister and Solicitor Regina, Saskatchewan	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT