

Federal Court



Cour fédérale

Date: 20250923

Docket: T-1739-24

Citation: 2025 FC 1561

Ottawa, Ontario, September 23, 2025

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

HENRY MALOSHICKY

Applicant

and

MEDICAL REVIEW COMMITTEE

Respondent

JUDGMENT AND REASONS

I. Background

[1] This is an application for judicial review of a decision by the Manitoba Medical Review Committee [MRC] requiring the Applicant to complete an on-road cognitive evaluation [ORCE] as a condition for receiving a driver's licence.

[2] The MRC is an administrative tribunal established under *The Highway Traffic Act*, CCSM c H60, continued by amendment under *The Drivers and Vehicles Act*, CCSM c D104 [*The Drivers and Vehicles Act*] (see *The Drivers and Vehicles Amendment and Highway Traffic Amendment Act*, SM 2022, c 13, ss 3, 8, and 16).

[3] On October 9, 2019, the Applicant received a letter from Manitoba Public Insurance Corporation [MPIC] notifying him that his Class 5F driver's licence was cancelled, effective October 16, 2019. The letter said that the cancellation could be challenged by requesting an ORCE or by appealing the decision to the MRC. The Applicant appealed the decision to the MRC.

[4] On January 22, 2021, the Applicant made his first appearance before the MRC. It determined that the Applicant could be found eligible for a Class 5F driver's licence upon completion of an ORCE. The Applicant was notified of the MRC's decision on January 26, 2021.

[5] On June 11, 2021, the Applicant filed a statement of claim against MPIC seeking damages for withholding his driver's licence without just cause. On November 18, 2021, the Manitoba Court of Queen's Bench granted a motion to strike that claim as frivolous and vexatious.

[6] The Applicant sought judicial review of the MRC's January 2021 decision in a hearing before the Manitoba Court of King's Bench on September 14, 2022. The court dismissed his application with reasons on September 15, 2022.

[7] In mid-January 2024, the Applicant scheduled and completed an ORCE. MPIC, in a letter dated January 24, 2024, notified the Applicant that he failed the evaluation.

[8] The Applicant appealed the decision. On June 14, 2024, the Applicant appeared before the MRC for a second hearing.

[9] On June 17, 2024, the MRC determined that the Applicant was approved for a Class 5A driver's licence for the sole purpose of completing two to four driving lessons with a qualified instructor. It determined again that a Class 5F licence could be issued to the Applicant upon his successful completion of an ORCE.

[10] The Applicant seeks judicial review of the MRC's June 2024 decision by this Court.

II. Issue

[11] Before the merits can be reviewed, it must be determined if the Federal Court of Canada has jurisdiction to judicially review a decision of the MRC.

III. Applicant's Submissions

[12] The Applicant represented himself. He is approaching his 75th birthday, and he seeks to have his driver's license reinstated, which was revoked in 2019.

[13] I heard very impassioned arguments from the Applicant. He was concerned by the need to discuss this Court's jurisdiction, as he believes it should not be at issue. He argued that this is

the right Court to hear this matter because the law in Canada is federally based, and that the MRC in particular is federally imposed, federally sponsored, and federally appointed.

[14] The Applicant alleged that the MRC breached its duty of procedural fairness during the June 2024 hearing by allowing him only 15 minutes to present his case before abruptly ending the session. Since the Federal Court may consider issues of procedural fairness in judicial reviews, the Applicant argued that this Court has jurisdiction.

[15] The Applicant disagrees with the findings of the MPIC examiner who administered his ORCE, as he does not believe he made four mistakes. Furthermore, he argues that even if he did make four mistakes, his overall score should have been considered, as he may still have passed. He refuses to accept the conditions imposed by the MRC for relicensing, as he does not want to take driving lessons or another ORCE. The Applicant is frustrated that he has not had a licence for six years. He argues that he is no longer cognitively impaired and has medical reports to support his claim.

IV. Analysis

[16] The power to make laws relating to property and civil rights belongs exclusively to provincial legislatures (*Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, s 92(13), reprinted in RSC 1985, Appendix II, No 5).

[17] The MRC is a provincial tribunal. Section 18.3 of *The Drivers and Vehicles Act* provides the statutory basis for the MRC's continued existence:

Medical review committee continued

18.3(1) The medical review committee established under *The Highway Traffic Act* is hereby continued under this Act.

Prorogation du comité d'étude des dossiers médicaux

18.3(1) Le comité d'étude des dossiers médicaux constitué sous le régime du *Code de la route* est prorogé en application de la présente loi.

Mandate

18.3(2) The mandate of this medical review committee is to hear and decide

- (a) appeals under section 19 (action after medical or optometric assessment);
- (b) appeals under subsection 23(2) (action after impaired driver assessment); and
- (c) appeals under subsection 124.6(3) of *The Highway Traffic Act* (physically disabled person's parking permit).

Mandat

18.3(2) Le mandat du comité d'étude des dossiers médicaux est d'entendre et de trancher les appels interjetés en vertu de l'article 19 ou du paragraphe 23(2) de la présente loi ou du paragraphe 124.6(3) du *Code de la route*.

[18] *The Drivers and Vehicles Act* is not a federal statute. It was passed by the legislature of Manitoba.

[19] The Federal Court is a statutory court. The exclusive original jurisdiction of the Federal Court is established under subsection 18(1) of the *Federal Courts Act*, RSC 1985, c F-7:

Extraordinary remedies, federal tribunals

18(1) Subject to section 28, the Federal Court has exclusive original jurisdiction

- (a) to issue an injunction, writ of *certiorari*, writ of prohibition, writ of *mandamus* or writ of *quo warranto*, or grant declaratory relief, against any federal board, commission or other tribunal; and

Recours extraordinaires : offices fédéraux

18 (1) Sous réserve de l'article 28, la Cour fédérale a compétence exclusive, en première instance, pour :

- a) décerner une injonction, un bref de *certiorari*, de *mandamus*, de prohibition ou de *quo warranto*, ou pour rendre un jugement déclaratoire contre tout office fédéral;

(b) to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to obtain relief against a federal board, commissions or other tribunal.

b) connaître de toute demande de réparation de la nature visée par l'alinéa a), et notamment de toute procédure engagée contre le procureur général du Canada afin d'obtenir réparation de la part d'un office fédéral.

[20] This provision permits the court to hear an application and provide relief against a “federal board, commission or other tribunal.” That term is defined under subsection 2(1) of the same Act:

federal board, commission or other tribunal means any body, person or persons having, exercising or purporting to exercise jurisdiction or powers conferred by or under an Act of Parliament or by or under order made under a prerogative of the Crown, other than the Tax Court of Canada or any of its judges or associate judges, any such body constituted or established by or under a law of province or any such person or persons appointed under or in accordance with a law of a province or under section 96 of the *Constitution Act, 1867*; (*office federal*)

office fédéral Conseil, bureau, commission ou autre organisme, ou personne ou groupe de personnes, ayant, exerçant ou censé exercer une compétence ou des pouvoirs prévus par une loi fédérale ou par une ordonnance prise en vertu d'une prérogative royale, à l'exclusion de la Cour canadienne de l'impôt et ses juges et juges adjoints, d'un organisme constitué sous le régime d'une loi provinciale ou d'une personne ou d'un groupe de personnes nommées aux termes d'une loi provinciale ou de l'article 96 de la *Loi constitutionnelle de 1867*. (*federal board, commission or other tribunal*)

[21] An administrative body “constituted or established by or under a law of a province” is expressly excluded from the definition of “federal board, commission, or other tribunal” under the Act.

[22] The source of the MRC’s authority is Manitoba law. It is not empowered under an Act of Parliament (i.e., a federal law), or under an order made under a prerogative power of the Crown

in right of Canada. The MRC is not a “federal board, commission or other tribunal” and therefore does not fall within the jurisdiction of the Federal Court to judicially review.

[23] The application for judicial review cannot proceed because this Court lacks jurisdiction to conduct a judicial review of a decision made by the MRC.

V. Conclusion

[24] This application is dismissed.

[25] As the Applicant is self-represented, no costs will be awarded.

JUDGMENT in T-1739-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No costs award is made in connection with this proceeding.

"Glennys L. McVeigh"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1739-24

STYLE OF CAUSE: HENRY MALOSHICKY v MEDICAL REVIEW
COMMITTEE

PLACE OF HEARING: WINNIPEG, MANITOBA

DATE OF HEARING: SEPTEMBER 18, 2025

JUDGMENT AND REASONS: MCVEIGH J.

DATED: SEPTEMBER 23, 2025

APPEARANCES:

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FOR THE APPLICANT
(SELF-REPRESENTED)

Brian Jones

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE RESPONDENT