

Federal Court



Cour fédérale

Date: 20260114

Docket: IMM-16699-24

Citation: 2026 FC 49

Ottawa, Ontario, January 14, 2026

PRESENT: The Honourable Justice Battista

BETWEEN:

OLAJUMOKE ABIMBOLA ODOBO

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of a visa officer's decision to refuse her work permit application because she is inadmissible to Canada for misrepresentation pursuant to section 40 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. For the reasons below, the application for judicial review is granted because the decision was based on a breach of procedural fairness and is unreasonable.

II. Background

[2] The Applicant applied for a work permit based on a positive Labour Market Impact Assessment (LMIA) issued by Employment and Skills Development Canada (ESDC). One of the criteria for the issuance of the LMIA was that the job offer extended to the Applicant is genuine (*Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], ss 200(5), 203(1)(a)).

[3] Despite the positive LMIA, the visa office conducted extensive investigations into the genuineness of the employer. These investigations included “open” internet and social media searches for the company and its representative identified as a “signee” and a “reverse lookup” for the company’s number listed online. The Officer concluded that the employer was not genuine and issued a procedural fairness letter (PFL) to the Applicant.

[4] The PFL expressed a concern that the application was based on a fraudulent or inappropriately obtained offer of employment. It stated that the Applicant may not have met the requirement to be truthful under subsection 16(1) of the *IRPA*, or that she was inadmissible under subsection 40(1) of the *IRPA*.

[5] In a letter responding to the PFL, the Applicant:

- explained how she obtained the position;
- Pointed out that ESDC interviewed the employer prior to the issuance of the LMIA;

- Invited the Officer to contact the employer directly to alleviate any concerns about the employer's genuineness.

[6] After reviewing the PFL response, the Officer indicated that they were "not satisfied that the applicant has adequately addressed concerns" and the application was refused.

III. Issues and standard of review

[7] The Applicant challenges the fairness of the process that led to the decision to determine her inadmissible for misrepresentation, and the reasonableness of the decision.

[8] The assessment of whether a breach of procedural fairness has taken place does not involve a standard of review. Instead, a reviewing court asks, "with a sharp focus on the nature of the substantive rights involved and the consequences to the individual, whether a fair and just process was followed" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54. See also *Hundal v Canada (Public Safety and Emergency Protection)*, 2022 FC 1482 at para 4).

[9] By contrast, a decision's reasonableness is considered pursuant to the reasonableness standard set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], and affirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21. A reasonable decision must bear the hallmarks of justification, transparency and intelligibility (*Vavilov*, at para 99).

IV. Analysis

A. *Procedural fairness was breached by an unfair PFL process*

[10] The factors for determining levels of procedural fairness require a high level of procedural fairness for misrepresentation determinations, regardless of the nature of the application underlying the misrepresentation concern (*Agyemang v Canada (Citizenship and Immigration)*, 2026 FC 30 [*Agyemang*], at paras 14-45). This high level of procedural fairness in turn requires full disclosure of a decision maker's misrepresentation concerns, including disclosure of any extrinsic evidence leading to those concerns, unless a justification for qualified disclosure is provided (*Agyemang*, at paras 47, 62-3).

[11] The PFL process in this case provides an illustration of why it is problematic to require anything less than full disclosure of misrepresentation concerns. Specifically, as seen below, decision makers authorized to provide less than full disclosure may understand themselves to be authorized to provide negligible disclosure. In addition to the consequent unfairness to applicants, negligible disclosure is then justified in judicial review litigation as consistent with the "gist" approach to disclosure found in the Court's jurisprudence (See *Agyemang*, at paras 51, 54).

[12] The Officer recorded the following misrepresentation concerns in the GCMS file notes:

Verification was requested for applicants offer of employment from Rogami Services LTD for a General office Support Workers position due to concerns regarding the employers business address and and [sic] online presence. Applicant letter of offer and LMIA for Rogami Services LTD lists the bsuiness [sic] address as 208 Pisces Terr, Glouster, ON. Google maps search of the address is a residential address. Open search for this address does not yiled [sic]

any results related to business Rogami Services LTD. Open search for this address yielded [sic] a result for business Zeld Alliance. Open search for business Zeld Alliance yielded [sic] a result for a company [sic] website [sic] in which the same employer [sic] name, Bolarinwa Famose, signed on applicants [sic] letter of offer from ROGAMI SERVICES LTD [who] is listed on Zeld alliance website as the director of business development. Open search for employer signee Bolarinwa Famose, results in a linkedin profile in which he lists Rogmai Care Services as one of his experiences and his bio states he is a co-founder of the company. His experience states that he has had this role of executive director for Rogmai services for 2 years and 11 months but company website states the business has been operating for over 25 years. Open search for employer ROGAMI SERVICES LTD results in a google business profile with 208 Pisces Terr, Gloucester, ON listed as the business address. Contact number on this profile is listed as 613-462-1599, while the contact number listed on applicants letter [sic] of offer is 438-969-0694. Search for company website, rogamiservices.ca, listed on letter of offer yielded [sic] a result. Company logo matches the one on the letter of offer. Contact number listed on website [sic] is 613-462-1599, while the contact number 438-969-0694 listed on letter of offer is not found on the website. A business address is not listed on any pages on the website. Call to business contact number found online and on website [sic] 613-462-1599 goes straight to voicemail and as per 411 reverse lookup, number is registered in the United States (number does not seem active). Business as per letter of offer and website states that they operate as a care service company. No reviews of these services can be found online.

[13] By contrast, here are the Officer's concerns expressed to the Applicant in the PFL:

Specifically, I have concerns that you have provided a fraudulent or inappropriately obtained letter of offer in your application for a work permit, which, if undetected, could have induced an error in the administration of the Act.

[14] It is not an exaggeration to observe that there was a chasm between the Officer's concerns as described in the file notes and the generic, minimal concern relayed to the Applicant in the PFL. Despite this chasm the Respondent defends the PFL letter's content as consistent with the "gist" approach to disclosure.

[15] Practically, however, the PFL functioned as little more than a foreshadowing of the refusal of the application based on subsection 40(1). As a result, procedural fairness was breached.

[16] The purpose of the PFL process is to provide fairness to an applicant in pursuit of the truth (*Agyemang*, at para 43). It ensures that there is a solid connection between the severe consequences imposed by subsection 40(1) and the factual circumstances that justify those consequences. The purpose of the process is not the refusal of an application based on subsection 40(1) through subterfuge or ambush.

[17] Fairness therefore requires that decision makers attempting to determine whether misrepresentation has taken place must themselves refrain from misrepresenting, omitting, or withholding material information relevant to their concerns. If a decision maker can articulate misrepresentation concerns in file notes which are subsequently fully revealed to an applicant upon judicial review, there is no reason why those concerns cannot be fully communicated to an applicant in the PFL process. To require anything less than full disclosure is not consistent with the level of high procedural fairness required in misrepresentation determinations and invites litigation as the parties argue over the meaning of unclear and unnecessary terminology requiring that only the “gist” of concerns be disclosed (*Agyemang*, at paras 51-58).

(1) The decision was unreasonable for failing to acknowledge contradictory evidence

[18] As stated above, the Applicant was issued an LMIA on October 13, 2023, which expired on April 13, 2025. The LMIA was issued by ESDC which has the statutory authority under the

IRPR to determine, in addition to other determinations, whether a job offer is genuine (*IRPR*, s 203(1)(a)).

[19] The Officer was not bound by the LMIA's confirmation that the job offer was genuine (*Singh v Canada (Citizenship and Immigration)*, 2022 FC 80 at para 16). However, the LMIA did represent the opinion of another federal decision maker that the job offer was genuine, after the decision maker made direct contact with the employer in the execution of their statutory mandate. There is no way of knowing whether the LMIA was overlooked, forgotten, or misunderstood, and the Officer was required to at least acknowledge their departure from this contradictory evidence because it served as an evidentiary constraint on the decision (*Vavilov*, at paras 125-126; *Singh Khosa v Canada (Citizenship and Immigration)*, 2024 FC 1328 at para 9). The decision was unreasonable for its inconsistency with this constraint.

V. Conclusion and remedy

[20] The decision refusing the application for a work permit based on misrepresentation was unfair for its non-compliance with procedural fairness standards requiring full disclosure of the Officer's concerns. It was also unreasonable for failing to acknowledge the opposite conclusion on the genuineness of the Applicant's job offer issued by ESDC in the execution of its statutory responsibility. As such, the application for judicial review is granted and the refusal of the work permit application is set aside.

[21] The Applicant's LMIA expired on April 13, 2025. In order to ensure that the Applicant is not prejudiced by the unfair and unreasonable decision on her work permit application, the new

Officer on redetermination will be directed to process the work permit application based on the validity of the LMIA as it existed at the time of receipt of the Applicant's work permit application (See *A.B.C.D. v Canada (Citizenship and Immigration)*, 2025 FC 1296, at para 67; *Ramizi v College of Immigration and Citizenship Consultants*, 2025 FC 692, at paras 40-41).

JUDGMENT in IMM-16699-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted, the decision refusing the Applicant's work permit application is set aside, and the matter is remitted to a different officer for redetermination in accordance with these reasons.
2. The redetermination will proceed on the basis of the validity of the Labour Market Impact Assessment (LMIA) as it existed at the time of the receipt of the Applicant's work permit application.
3. The new decision maker is directed to provide the Applicant with an opportunity to update submissions and evidence in support of the application.
4. The new decision maker's concerns regarding subsection 40(1), if any, including extrinsic evidence relied on, if any, will be provided in full to the Applicant, with a reasonable time period provided to the Applicant for a response.

"Michael Battista"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-16699-24

STYLE OF CAUSE: OLAJUMOKE ABIMBOLA ODOBO v. THE
MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 24, 2025

JUDGMENT AND REASONS: BATTISTA J.

DATED: JANUARY 14, 2026

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