

Date: 20071115

Docket: IMM-421-07

Citation: 2007 FC 1173

BETWEEN:

KELTOUN BAHMED

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT

Pinard J.

[1] This is an application for judicial review of the decision of a visa officer at the Canadian Embassy in Rabat, Morocco, who, on November 20, 2006 refused to grant the applicant a work visa as a live-in caregiver for her sister-in-law in Ingleside, Ontario. This decision followed a first decision made on November 6, 2006 by another visa officer who also denied the same requested work visa.

[2] On November 6, 2006, the visa officer dealing with the applicant's case noted that the applicant was an embroiderer by occupation and did not have any brothers or sisters at home to take care of. Furthermore, the applicant had not brought her secondary education diploma with her. In light of her lack of experience and diploma, the visa officer noted that she had no choice but to reject the application.

[3] The applicant returned to the visa office on November 20, 2006, this time bringing her "Certificat de scolarité" which stated that she had completed her "neuvième année de l'enseignement fondamental," and a letter certifying that she worked as an 'éducatrice' from September 1, 2002 to June 30, 2004. The second visa officer determined that the applicant's education did not meet the requirements, as the applicant had not completed secondary school. Furthermore, the applicant's work experience was not sufficient because she had only acquired seven months of experience in the three years immediately preceding her application. Therefore, the visa officer again rejected the application.

[4] Paragraph 112(c) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the Regulations) provides that, before a live-in caregiver work visa can be issued, an applicant must have completed six months of full-time training or one year of full-time paid employment in a field or occupation related to the employment for which the work permit is sought. The work experience must be within the three years immediately preceding the date of the work permit application. Furthermore, an applicant must also have successfully completed a course of study that is equivalent to the successful completion of secondary school in Canada. If an applicant does not meet these requirements, a work permit shall not be issued.

[5] According to the applicant, the decision that her education was insufficient was not well-founded. I do not agree. Upon reviewing the relevant evidence, I find that the visa officer's decision regarding the applicant's education was reasonable. The applicant provided a diploma stating she had completed the ninth level of school in Morocco. It was reasonable, considering the visa officer's expertise, for her to determine that this is not equivalent to successful completion of secondary school in Canada as required by paragraph 112(b) of the Regulations. There is no evidence that completion of a typing examination was sufficient to bring her academic standing to the required level (*Dowlat v. Minister of Citizenship and Immigration*, 2005 FC 523).

[6] Furthermore, I am of the view that the applicant's claim that the visa officer went on a 'fishing expedition' to find reasons to deny the work permit is unsubstantiated. Contrary to the applicant's submission that the applicant's education was not in dispute at the time of the first decision, the first visa officer indicated in her reasons that there was no evidence that the applicant met the educational requirements, and rejected the application for failure to meet both the education and work experience requirements.

[7] The applicant did not put the visa officer's decision with regard to her lack of work experience into question in her submissions. This means that, even if the visa officer's decision regarding the applicant's educational qualifications was unreasonable, another visa officer would reach the same result since the applicant does not have the required work experience.

[8] Indeed, I also find that the visa officer's decision with regard to the applicant's work experience was reasonable. Subparagraph 112(c)(ii) of the Regulations requires at least one year of

related work experience in the three years immediately preceding the application for a work visa as a live-in caregiver. The evidence provided by the applicant only demonstrated that she had seven months of work experience in the preceding three years.

[9] The applicant further submits that the visa officer's reasons are inadequate, and cites case-law which establishes that a decision-maker's reasons must be clear when there is a question of credibility. However, credibility does not seem to be in question in this decision. The visa officer did not dispute that the applicant had completed the education and work experience that she claimed. Rather, the visa officer's decision relates to whether this experience is sufficient to meet the requirements of the Regulations.

[10] I find that the visa officer's reasons, while brief, are sufficiently clear and intelligible for the applicant and the Court to determine why the application for a work permit was rejected. There is nothing vague or contradictory about them. I do not see a basis for reviewing the visa officer's decision on this ground.

[11] For all the above reasons, the application for judicial review is dismissed.

“Yvon Pinard”

Judge

Ottawa, Ontario
November 15, 2007

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

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STYLE OF CAUSE: KELTOUN BAHMED v. THE MINISTER OF
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