

Federal Court



Cour fédérale

Date: 20160119

Docket: IMM-2761-15

Citation: 2016 FC 59

Toronto, Ontario, January 19, 2016

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

SADIA TARIQ

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

ORDER AND REASONS

(Delivered orally from the bench in Toronto, Ontario on January 18, 2016)

[1] Sadia Tariq, [the Applicant] has applied for judicial review of a Decision dated April 10, 2015 in which Citizenship and Immigration Canada (CIC) refused her application for permanent residence in the Federal Skilled Worker category (the Decision). The application is made pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the IRPA).

[2] The Applicant is a 39 year old female citizen of Pakistan. She currently resides in Karachi with her husband.

[3] The Applicant applied for permanent resident status (the PR Application) in December of 2014 in the occupation category "Dietitians & Nutritionists".

[4] The Applicant's brother-in-law is a permanent resident of Canada and was included in the Applicant's PR Application because his presence in Canada is a factor to be considered when an Officer awards a maximum of 5 points for "adaptability".

[5] CIC's Checklist for the PR Application lists the documents CIC would accept to prove that the Applicant's brother-in-law is a Canadian resident. They are: a tenancy agreement, an employer's letter confirming employment, a monthly credit card invoice or other bill, a bank statement and a Notice of Assessment from the Canada Revenue Agency. As well, the Checklist states on page 1:

If your application lacks any of the documents without a reasonable justification it will be returned to you or in certain circumstances could result in the refusal of your application.

[6] The Checklist also indicates that all documents must be less than 6 months old at the time of the PR Application.

[7] There was no issue that the brother-in-law was a permanent resident (he is now a citizen) and that he was in fact the Applicant's brother-in-law. The only issue was his residency in

Canada. The document submitted with the PR Application in December 2014 to prove his residence was a Tenancy Agreement dated April 5, 2011.

[8] The Tenancy Agreement was for a 1 year term from May 1st, 2011 to April 30th, 2012. It provided that the tenancy would continue after April 30, 2012 unless the parties entered into a new agreement or unless a party failed to give proper notice.

[9] Unfortunately, the Applicant did not provide evidence that the tenancy had in fact continued after April 30, 2012. For this reason, the Applicant received no points for adaptability. This meant that she received 66 of the 67 points she needed to qualify for permanent residence.

[10] The Applicant was not sent a letter indicating that the Tenancy Agreement was unacceptable before her PR Application was refused (the Refusal).

[11] After the Refusal, additional documents were sent to CIC. One was a letter from the property manager at the brother-in-law's residence confirming that he was still a tenant when the PR Application was filed. However, the Decision states in bold type "Any different or new documentary information that you submit cannot be taken into consideration." As well a request for reconsideration was made by the brother-in-law's Member of Parliament. However, it was refused because it was not made by the Applicant and in any event, as the Decision stated, a reconsideration would not take documents into account that had not been filed with the PR Application.

I. Issue

[12] The Applicant says the Decision is unreasonable because a breach of procedural fairness occurred when she was not sent a letter notifying her that the Tenancy Agreement was not accepted to establish the brother-in-law's residence in Canada.

II. Discussion

[13] There was no issue about the authenticity of the Tenancy Agreement or the Applicant's credibility. The Checklist established the requirements for acceptable documents and warned the Applicant that her failure to provide proper documents could result in the refusal of her PR Application. The simple fact is that the Applicant failed to provide sufficient supporting documentation to show that the Tenancy Agreement remained current 6 months or less before she filed her PR Application.

III. Conclusion

[14] In these circumstances, there was no requirement for notice before the PR Application was refused. Accordingly, the Decision was reasonable and the application for judicial review will be dismissed.

IV. Certification

[15] No question was posed for certification for appeal.

ORDER

THIS COURT ORDERS that the application for judicial review is dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2761-15

STYLE OF CAUSE: SADIA TARIQ v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 18, 2016

ORDER AND REASONS: SIMPSON J.

DATED: JANUARY 19, 2016

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