Federal Court  Cour fédérale

Date: 20170731

Docket: IMM-170-17

Citation: 2017 FC 746

Ottawa, Ontario, July 31, 2017

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

LINAMAR CORPORATION

Applicant

and

THE MINISTER OF EMPLOYMENT AND SOCIAL DEVELOPMENT

Respondent

JUDGMENT AND REASONS

[1] The regulations adopted under the authority of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] set out the conditions governing the entry into Canada and the right to remain in Canada of a foreign national wishing to work as a Temporary Foreign Worker [TFW]. A foreign national (i.e. a person who is not a Canadian citizen or a permanent resident) is not authorized to work in Canada unless, among meeting other requirements, that person holds a work permit issued by Immigration, Refugees and Citizenship Canada [IRCC]. Both condition of

the Temporary Foreign Worker Program [TFWP] and the need for an interested Canadian employer to obtain a Labour Market Impact Assessment [LMIA] prior to engaging foreign nationals are governed by the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[2] In the case at bar, Linamar Corporation [applicant or employer] seeks judicial review of the decision rendered on January 4, 2017, by Mr. Samir Mourani, a Senior Program Development Officer of the Department of Employment Social Development Canada [ESDC], wherein the officer denied the applicant's application for a positive or neutral LMIA to employ fifteen unnamed foreign workers as industrial electricians [the position].

[3] For the reasons that follow, this application for judicial review is dismissed.

Background

[4] The applicant, a Canadian corporation, describes itself as the largest employer in Guelph, Ontario. On October 10, 2015, the applicant submitted through an immigration consultants firm, Matthews – Global Immigration Law [Matthews or third party], a LMIA application, requesting a positive or neutral LMIA to employ fifteen unnamed foreign workers as industrial electricians. The National Occupational Classification [NOC] code for this position is NOC 7242. The applicant indicated that the persons hired in the position would be paid an hourly rate of $29 per hour. The applicant submitted in its LMIA that this rate was advertised according to guidelines of ESDC's website which requires posting a position's wage in the mandatory TFMP advertisements. Furthermore, the applicant stated that the employment of foreign nationals

would allow it to maintain production and meet contractual obligations to customers including General Motors, Ford and Chrysler. As part of their recruitment process, the applicant had hired two Canadians among the other candidates to work in the position. The applicant also provided to ESDC a Transition Plan as to how it would reduce its reliance on foreign workers over the years.

[5] On October 11, 2016, the Officer interviewed Ms. Roxanne Rose, the employer's Vice President, Global Human Resources, during which she said that Linamar had been experienced over year growth of at least 20%. Ms. Rose also told the officer that all of Linamar's manufacturing plants work shift and that the reason for the shift work requirements is that all of Linamar's plants operate continuously 24/7 in order to meet its contractual obligations. As such, Linamar requires employees to work "continental shift", i.e. 12 hour shifts, and the current rotation of shifts include 3 days on 2 days off. Due to this specific schedule, Linamar has experienced a high number of turnovers due to employees wanting to work straight days as opposed to around the clock shift work, resulting in most of them leaving for competitors who can offer such work schedules. She further explained that the employer was struggling to meet its existing contracts.

[6] The officer enquired why the employer could not hire a subcontractor to meet those targets instead of hiring foreign workers. Ms. Rose responded that relying on a subcontractor was administratively expensive and that the quality of their work was unpredictable.

[7] On October 14, 2016, Ms. Kim Ly, the third-party representative from Matthews, provided the officer with the Linamar's consolidated statement of financial position showing that, from 2014 to 2015, the applicant's sales had increased from $4,171,561 to $5,162,450. Ms. Ly also informed the officer about the apprenticeship programs offered by Linamar to its existing employees. However, Linamar is limited as to how many can become apprentice by the ratio established by Ontario's Ministry of Labour. Yet again, Ms. Ly highlighted that was another reason why the applicant needed to hire fifteen qualified industrial electricians.

[8] In determining whether there was a labour shortage for the position, the officer assessed the applicant's recruitment and referred to several sources documents. According to his notes, the Ontario Job Futures website stated that both that "jobs are expected to be more difficult to find", and that "on the other and, jobs are easier to find; unemployment is less likely". Faced with this inconsistency, the officer communicated with Mr. John Grimshaw from the International Brotherhood of Electrical Workers Construction Council of Ontario [IBEW CCO], which represents eleven Local Unions across the province of Ontario, to learn more about the employment realities of the position. During this conversation, Mr. Grimshaw highlighted the differences between a "Construction electrician" and an "Industrial electrician" in the region, and explained why continental shifts are unfavourable and generally result in a higher rate of pay. Mr. Grimshaw also stated that there is a high unemployment rate among industrial/construction electricians, both union and non-union, in the Guelph region. Also, in addition to sourcing industrial electricians, construction electricians can completely fulfill the duties of this role and, due to seasonal impact, construction electricians are available throughout the year to fill labour

needs. From this discussion, the officer was under the belief that there was no labour shortage for the position advertised by the applicant.

[9] On October 28, 2016, the officer communicated with Ms. Rose and Ms. Ly, two days after his conversation with Mr. Grimshaw, to present findings resulting in a negative LMIA. According to his notes, he presented them with the rational "with the sources used for LMI". Ms. Ly would have then agreed with most of his comments, but disagreed "with the interpretation of the data". She allegedly stated that "retention issues are indicative of Canadians not willing to take on the job the way it is presented by Linamar therefore not being available". The officer then explained that "retention in this situation is indicative of a working condition that is unappealing to the Canadian labour market resulting in the qualified Canadians hired by Linamar leaving for other employment with more favorable conditions".

[10] In his reasons, the officer determined that the applicant was reasonably able to fulfill the terms of the offers of employment pursuant to paragraph 200(5)c) of the IRPR. However, the officer found that the applicant seeking to hire foreign workers to fulfill fifteen industrial electricians was not consistent with the reasonable needs of the company. Furthermore, he found that the applicant had not indicated that the employment of foreign workers would lead to job creations or retention pursuant to paragraph 203(3)a) of the IRPR, nor that there would be a transfer of skills or knowledge to Canadians and permanent residents pursuant to paragraph 203(3)b) of the IRPR.

[11] Moreover, the officer noted that the posting of the prevailing wage for industrial electricians ($29) was not sufficient to account for the fact that it was also targeting construction electricians, who typically receive a higher rate of pay, and that the position would require working in unfavourable workings conditions. According to the officer, the applicant should have advertised this position at the higher rate of the internal wage band in order to demonstrate a reasonable effort to hire Canadian citizens.

[12] Finally, the officer stated that the employment of the foreign workers was unlikely to fill a labour shortage pursuant to paragraph 203(3)c) and that the employer had not made reasonable efforts to hire or train Canadian citizens or permanent residents.

The present application

[13] The applicant submits that there was a material breach to procedural fairness and the impugned decision is unreasonable. Firstly, the officer failed to inform the applicant about his exchange with Mr. Grimshaw from IBEW CCO or the nature and the extent of the obtained information, while it never got the opportunity to fully respond to this extrinsic information, as the officer had already made his mind after his exchange with IBEW CCO. Secondly, the officer did not provide sufficient reasons to support his conclusion and his analysis of the relevant factors listed in subsection 203(3) of the IRPR is incomplete.

[14] In turn, the respondent does not deny that the officer did indeed rely on extrinsic evidence. However, the applicant was allegedly invited to respond on the obtained information, on several occasions. Consequently, the respondent pleads that there has been no breach of

procedural fairness or principal of natural justice. Furthermore, the impugned decision is reasonable. Moreover, even though its LMIA application was refused, the applicant is still free to address the concerns raised by the officer in a new LMIA application.

[15] As asserted by the respondent`s counsel during the hearing, the TWFP enables Canadian employers to hire foreign workers as a last resort, and on a temporary basis, to fill their genuine skill and labour shortages when qualified Canadians and permanent residents are not available. This was one of the key factors in the officer's decision. Overall, the LMIA application was rejected under subsection 203(1) of the IRPR essentially because the employment of foreign nationals was unlikely to have a neutral or positive effect on the labour market in Canada. Moreover, the officer issued a negative opinion based on the following findings:

> 1) The employer did not sufficiently demonstrate that there is a reasonable employment need;
>
> 2) The employer has not demonstrated sufficient efforts to hire Canadians, pursuant to paragraph 203(3)e) of the IRPR; and
>
> 3) Labour worker information does not support a labour shortage for this position in this geographic region, pursuant to paragraph 203(3)c) of the IRPR.

[16] Both parties agree that the merit of the impugned decision has to be reviewed under the standard of reasonableness given that an opinion by ESDC regarding employment of foreign national likely to have a neutral or positive effect on the labour market in Canada is a mixed question of facts and law (*Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190; *Construction and Specialized Worker's Union, Local 1611 v Canada (Citizenship and Immigration)*, 2013 FC 512, [2014] 4 FCR 549 at para 91 [*Construction and Specialized Worker's Union, Local 1611*]; *Charger Logistic Ltd v Canada (Employment and Social*

Development), 2016 FC 286, [2016] FCJ No 270 at para 9; *Sky Blue Transport Ltd v Canada (Employment and Social Development)*, 2017 FC 273, [2017] FCJ No 272 at para 15 [*Sky Blue Transport Ltd*]). On the other side, whether the officer breached his duty of procedural fairness is an issue of law reviewable on a standard of correctness. On that note, the respondent states that it is not so much a question of whether the decision or opinion is correct, but whether the process followed in making the decision was fair (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12; *Kozul v Canada (Employment and Social Development*), 2016 FC 1316, [2016] FCJ No 1328 at para 8 [*Kozul*]).

No breach procedural fairness

[17] The applicant first underlines that, although the duty of procedural fairness owed by the officer is at the low end of the spectrum, it is not inexistent. Based on the principles developed in *Kozul* at para 10, the Court should analysed "whether meaningful facts essential or potentially crucial to the decision had been used to support a decision without providing an opportunity to the affected party to respond to or comment upon these facts."

[18] There is no dispute between the parties that the information obtained from Mr. Grimshaw of the IBEW CCO was extrinsic evidence. However, the applicant contends that this information directly affected the outcome of its LMIA, as it goes to the core of its LMIA, especially regarding the labour shortage and Linamar`s effort to hire, recruit and train Canadian citizens. During the hearing, the applicant's counsel submitted that the "broad list of concerns" disclosed by the officer to Ms. Ly, the third-party representative, was not meeting the criteria defined in *Kozul*. For instance, the officer failed to inform the applicant that the information was provided

by a union representative. Had the officer revealed the source of the information, the applicant's representative would have certainly assessed the information differently. As such, it was unfair that the full extent of the information obtained by the officer from speaking with an IBEW CCO representative was not completely disclosed to the applicant before he issued the negative LMIA opinion.

[19] Be that as it may, the applicant asserts that a review of the officer's notes show that it was not given an opportunity to respond to the information obtained from Mr. Grimshaw. According to the officer's notes, on October 28, 2016, he sent an email to Ms. Rose, requesting a time to discuss his decision on file, but later presented his findings resulting in negative LMIA to the third party representative. Therefore, the applicant pleads that, by the time the officer contacted Ms. Ly on January 4, 2017, the officer had already refused the LMIA Application. Denying the applicant the opportunity to comment upon or offer counter evidence to contract this undisclosed information was just as much a breach of procedural fairness, for which the present Court should intervene.

[20] I cannot agree with this position and, overall, I endorse the arguments of the respondent.

[21] First, I am convinced from the evidence before this Court that the substance of the extrinsic evidence obtained from Mr. Grimshaw was conveyed to the applicant's third-party representative. As submitted by the respondent, ESDC officers often base their assessment on the information provided by the employer but also on any additional information collected by the officers themselves, including information relating to labour shortage and wages. It is also

common practice that the officer will call the employer or its representative before finalizing the decision – which it is exactly what happened here. Indeed, the officer wrote in his notes that his conversation with Mr. Grimshaw was disclosed to Ms. Ly, the applicant's third party representative, in a phone conversation held just two days after his conversation with Mr. Grimshaw, and that she was given an opportunity to respond to the information at that time. At this point, there is no reason for the Court to doubt this statement, as the officer's notes state that a list of concerns was provided to this representative surrounding the applicant's LMIA (officer's notes, applicant's record at pages 11-12). Even in the absence of relevant affidavit from the officer itself, I am satisfied that I can rely on the officer's notes which were contemporary gathered after each of his contact with the applicant's representatives. Nevertheless, there is no affidavit from Ms. Ly to contradict this fact.

[22] Turning again on the only relevant piece of evidence before this Court - the officer's notes, it is provided that Ms. Ly only disagreed with the officer's assessment of the labour market conditions. However, the fact that she disagreed with this data does not mean that she was deprived of her right to respond to it. According to the respondent, this entry shows that the applicant, through its third-party representative, was provided with an opportunity to respond to that information, which, in fact, it did through its representative's answer (*Fredy's Wedding Inc v Canada (Employment and Social Development)*, 2017 FC 7, [2017] FCJ No 4 at paras 17-28 [*Fredy's Wedding Inc*]). Nevertheless, the officer called another time the applicant's third party representative on January 4, 2017, before finalizing his refusal and issuing his decision. He then explained the rationale behind all three grounds for his refusal with the sources relied on in reaching his decision. The respondent underlines that, at this precise moment, the officer was not

bound to render a decision and, had the applicant provided new evidence or arguments that would have altered his decision or required further fact finding, the officer would have had to reconsider his decision.

[23] With regards to this extrinsic evidence, this Court has to assess whether the applicant's representatives were informed of the substance of the evidence, obtained from IBEW CCO, and whether they were provided with opportunity to respond to it and make all the relevant representations in relation thereto (*El-Helou v Courts Administration Service*, 2012 FC 1111, [2012] FCJ No 1237 at paras 75-77).

[24] In the present case, the substance of the information was conveyed and the applicant has not demonstrated how the source of the extrinsic evidence would have changed its submission. The fact that IBEW CCO is known to represent unions in Ontario is not very relevant here, as the applicant has not proven how the source of the information would have affected its respond. As stated by Justice Shore in *Ahmed v Canada (Employment and Social Development)*, 2016 FC 197, [2016] FCJ No 214 at para 15, it is impossible for the Court to find that there was a breach of procedural fairness "if the applicants do not, at the very least, indicate how these changes had tangible consequences for their application bearing in mind the contents of the applicants' application itself and the circumstances set-out thereon". Furthermore, this refusal is not final and the applicant may reapply and address the concerns raised by the officer in his decision.

[25] Overall, I am convinced that the applicant was given an opportunity to respond to the officer's concerns. Indeed, the evidence shows that Ms. Rose and Ms. Ly were contacted on

multiple occasions and that the officer disclosed his findings on its LMIA and requested additional information.

[26] Secondly, and most importantly, the respondent's counsel has effectively demonstrated to the Court that the three grounds of the officer's refusal were based largely on the information conveyed by the applicant's representatives. Without going in details, the respondent underlined, during the hearing, that the main topics of information provided by Mr. Grimshaw, whether it was from: (1) the different types of electricians; (2) the current labour market conditions; or (3) the working conditions, i.e. continental shift (officer's notes, page 8), were put to the attention of the applicant. Indeed, we can see from the officer's notes that both Ms. Rose and Ms. Ly have provided counter information for each of those topics, either earlier in the process or later on (officer's notes at pages 3 and 4). Furthermore, it seems clear that the idea of continental shift being unfavorable is nothing new for the applicant as Ms. Rose had already confirmed to the officer that "workers are leaving to work for other companies who offer straight shift" (officer's notes at page 4, "second contact" on October 11, 2016). Moreover, the other ground for the officer's refusal - the effort to recruit Canadian citizens, was based solely on the information conveyed by the applicant and has nothing to do with the information provided by Mr. Grimshaw.

[27] I am satisfied that there was no breach of procedural fairness, as the officer based his refusal not only on the extrinsic information obtained from Ms. Grimshaw, which was disclosed, but also on the information provided by the applicant's representatives themselves. In light of the

above, the Court finds that the officer did not breach any procedural fairness principles in assessing the LMIA.

Reasonable decision

[28] Given the different factors provided at subsection 203(3) of the IRPR upon which an officer must base a positive LMIA assessment and the evidence on record, I am also satisfied that the impugned decision is reasonable. Overall, the negative assessment of the officer rests on the applicant's failure to provide objective evidence on the labour shortage, on the specific need for industrial electricians, on the lack of efforts to advertise a job position with appealing conditions, or offering appropriate wages to alleviate the continental work shift. This is a reasonable outcome in light of the applicable law and the evidence on record.

Weighing of all the relevant factors

[29] During the hearing, the applicant's counsel submitted that it all goes down to a broader issue of whether officers have to weigh all the factors articulated in subsection 203(1) of the IRPR or whether there is a factor that is determinative. In this case, the applicant contends that the officer failed in both ways as he treats each element as a requirements rather than a factor that must be weighed (*Construction and Specialized Worker's Union, Local 1611* at para 144). However, the case law is clear that ESDC officers must turn their minds to the overall impact, rather than automatically refusing LMIA application once they determine that one factor is negative (*Paturel International Company v Canada (Employment and Social Development)*, 2016 FC 541, [2016] FCJ No 528 at paras 10-11 [*Paturel*]). In the present case, the applicant

submits that it is not clear what the result of the officer's weighing of the factors would have been had the officer not committed so many reviewable errors by basing his decision on the information obtained by IBEW CCO regarding the labor shortage or the appropriate wage for industrial electricians. In any event, the officer's decision was unreasonable since the officer did not address how all the factors defined at subsection 203(3), when read together, impact the Canadian labour market.

[30] The arguments made by the applicant are unfounded. The case law establishes that it is unreasonable for an ESDC officer to rely solely on one factor or one data. Doing so amounts to a fettering of discretion (*Seven Valleys Transportation Inc v Canada (Employment and Social Development)*, 2017 FC 195, [2017] FCJ No 210 at para 32 referring to *Paturel* at paras 11-12). While I agree with the applicant that the information obtained from IBEW CCO played a role in the officer's decision, the latter did not solely rely on this one source of data to assess the labour shortage or the overall LMIA. From a reading of the officer's notes, it is apparent that he seriously questioned the reasonable efforts undertook by Linamar to offer an adequate wage and appealing conditions for Canadian citizens to fill these positions. Furthermore, the officer frequently required additional information from Ms. Rose or his third party representative to have better understanding of the labour situation, but also to understand the dynamic within Linamar.

[31] As stated by Chief Justice Crampton in *Frankie's Burgers Lougheed Inc v Canada (Employment and Social Development)*, 2015 FC 27, [2015] FCJ No 53 at para 40, it is readily apparent from subsection 203(3) of the IRPR that the reasonableness of the officer's decision

should be assessed by reference to the ultimate test of whether "the employment of the foreign national is unlikely to have a positive or neutral effect on the labour market in Canada as a result of the application." The seven specific criteria set forth in paragraphs 203(3)(a) – (g) of the IRPR reinforce this orientation, but do not in any way allude to or contemplate the types of considerations or latitude that should assess the officer.

[32] In the present case, the officer did consider all the factors established at subsection 203(3) of the IRPR but ultimately concluded that the issuance of a positive LMIA was unlikely to have a positive or neutral effect on the labour market in Canada. Furthermore, the officer's findings were made following a detailed review of the LMIA application materials and his notes are clear on every ground of refusal, whether it is on the applicant's failure to demonstrate reasonable efforts to recruit Canadian/permanent residents, or that the advertised wage was too low with regards to the prevailing shift. Even going through all the other grounds of the impugned decision - other than the labour shortage, the applicant has not convinced me, from all the errors raised in its lengthy submission, that the final outcome is unreasonable.

Reasonable employment needs

[33] The applicant submits that the officer erred in his conclusion regarding the need for fifteen industrial electricians by failing to consider four key elements. First, (1) he did not consider the fact that the applicant is one of Canada largest automotive parts manufacturer or (2) that it obtains approval from the Ministry of Ontario so that its employees could work excess hours to meet demand. Furthermore, (3) the applicant needs the foreign workers to improve its ratio of qualified electricians to apprentices and, despite its employees working excess hours, it

cannot even maintain its existing commitments without extensively relying on third party labour suppliers. Finally, (4) the officer erred in determining that a multi-billion dollar automotive parts manufacturer with over 6,000 employees in Guelph did not have a reasonable need for 15 additional industrial electricians. The applicant contends that this unreasonable conclusion does not accord with the evidence on record.

[34] This position is unsubstantiated. As shown in his notes, the officer did consider all the positive elements enumerated by the applicant, but also the negative ones. Indeed, the officer notes from the ongoing contract with Ford, executed in 2013, provided by the applicant, that there had been no change in the applicant's operational circumstances within the past four years that would necessitate the hiring of foreign workers. Although the applicant was experiencing certain operational hardships, same were apparently not enough for the officer to conclude that they should alleviate through the hiring of foreign workers. The officer also notes that, in addition to sourcing industrial electricians, construction electricians can completely fulfill the duties of this role and, due to seasonal impact, construction electricians are available throughout the years to fill labour need. Given his findings on labor shortage, it was reasonable for the officer to conclude that the applicant has not demonstrated a reasonable employment needs.

Sufficient efforts to hire Canadian citizens or permanent residents?

[35] The applicant pleads that the officer made numerous errors, which ultimately tainted his conclusion regarding Linamar's efforts to hire Canadian citizens.

[36] First, the applicant submits that the officer erred in consideration of the appropriate wage for the position. The officer concluded erroneously that industrial electricians who work on continental shifts are generally paid more than industrial electrician who do not. As a matter of fact, the applicant points out that its advertised wage for the position corresponds to the guideline published on the "Working in Canada" website, a website regularly used to assess wages in the TFWP, which states that prevailing wage for an industrial electrician in the Kitchener-Waterloo-Barrie Region is $32 per hour while the prevailing wage for construction electrician is $27 per hour. Nevertheless, the applicant contends that the officer erred on the expected wage rate. His assumption that construction electricians expect a higher rate of pay than industrial electricians is not only highly speculative and unsupported, but also contrary to the "Working in Canada website". Accordingly, the officer's conclusion that construction electricians would expect to earn more than industrial electricians is incorrect, speculative, and therefore unreasonable.

[37] Secondly, the applicant contends that the officer failed to consider its "Transition Plan" in his assessment under paragraph 203(3)e) of the IRPR. This disposition clearly stated that the assessment can be both forward looking and look to previous efforts. However, the officer focused entirely on previous recruitment efforts. Contrary to his conclusion, the applicant's Transition Plan, a mandatory TFWP requirement, provides relevant information on how the employer will hire or train Canadian citizen or permanent resident, by seeking out relevant post-secondary institutions that have Skilled Trades Co-op programs or by offering training and vocational improvement courses for employees, and by specifically offer women and youth apprentices.

[38] Overall, the applicant has tried to pinpoint different elements of the officer's analysis, for which it disagrees. Despite this, I find that the officer's analysis is not arbitrary or capricious, while it is supported by the evidence or lack of same. Indeed, it was reasonable to conclude that posting the prevailing wage for a job opportunity, which entailed unappealing working conditions, did not show sufficient efforts to hire Canadian citizens or permanent residents. Both the applicant's representatives, Ms. Rose, and Ms. Ly, acknowledged on several occasions that qualified Canadian employees were leaving for better working conditions (i.e. to avoid continental shift work) and, despite the requirement to work undesirable hours, they confirmed that Linamar does not offer a shift premium to its employees.

[39] As stated by the respondent, the applicant advertised the employment opportunities at the prevailing wage, rather than at the lower end of its internal wage band. Although there was apparently some confusion with respect to the wage rate for the position, ultimately, the applicant elected to advertise the positions at $29 per hour (the prevailing wage rate) as opposed to $29.94 per hour (the lower ends of its wage hand). In doing so, the applicant received twenty applications for Canadians or permanent residents, only two of whom were qualified for the position. Nevertheless, the fact that the applicant has hired Canadians as part of its job recruitment process is not determinative of whether reasonable efforts have been made. In short, it was reasonable for the officer to question the applicant's efforts in their hiring process since it advertised its position at the prevailing wage, instead of at higher internal wage band, in condition where there was no labour shortage and for shift work, identified by the applicant's representative as an unfavourable working condition.

[40] With regards to the Transition Plan, I agree with the respondent that since it was found that the applicant had failed to demonstrate reasonable efforts to hire Canadian, a consideration of the applicant's future plans to hire Canadians citizens or permanent residents was immaterial to the officer's ultimate decision pursuant to paragraph 203(3)e) of the IRPR (*Babic v Canada (ESDC)*, 2016 FC 174, [2016] FCJ No 188 at para 32).

[41] Consequently, I find that the outcome reached by the officer in this case fell squarely within the range of possible acceptable outcomes.

Conclusions

[42] This application for judicial review dismissed. No question of general importance has been raised by the parties and none is certified.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be dismissed.

No question is certified.

"Luc Martineau"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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