

Federal Court



Cour fédérale

Date: 20170908

Docket: IMM-4769-16

Citation: 2017 FC 816

Toronto, Ontario, September 8, 2017

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

ELIZABETH BAILEY

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench in Toronto, Ontario on September 8, 2017)

I. Overview

[1] The immigration officer noted that she was sympathetic to the mistreatment that the Applicant reported at the hands of her employer but she did not recognize, acknowledge or understand the degree of exploitation which the Applicant suffered by her employer which is of significant concern in such cases, recognizing that Canadian authorities put into operation the

Program for Live-In Caregivers. Canada should not receive the reputation due to individuals, even if few, who could or would be exploited and abused, without consequences. Thus, such individuals, as the Applicant, should not be penalized under the auspices of a Canadian government program.

II. Decision

[2] If it was not for the abuse and exploitation of her employer, the Applicant, understandably, expected to remain in Canada under that program. The evidence is very clear thereon.

[3] Ms. Elizabeth Bailey applied for permanent residence in Canada on humanitarian and compassionate grounds. An immigration officer denied her application.

[4] The Applicant submits that the officer's decision is unreasonable because it failed to adequately understand significant evidence in her favour.

[5] The Court agrees that the officer did not give adequate understanding to significant evidence in the Applicant's favour; therefore, the decision is unreasonable, and the Court grants the judicial review.

[6] Although, the Applicant presents a few issues, the Court needs only to consider whether the decision was unreasonable as to an important element that was not taken into account appropriately.

[7] The work conditions under which the Applicant lived were both abusive and, furthermore, exploitative in respect of compensation, all of which took place under a program initiated and put in effect by Canadian immigration authorities for individuals such as the Applicant.

[8] A greater measure of sympathy is warranted, in as much as what are humanitarian and compassionate grounds all about, if not to be humanitarian and compassionate? That is in a situation wherein unusual, undeserved, disproportionate hardship would ensure as it did in this case.

[9] The above, in and of itself, lends itself to a greater understanding of the Applicant's position, who is trying to assist the life and future of her family in her country of origin.

[10] As the key evidence, referenced above, was not appropriately given the weight which it was due, the decision of the officer was unreasonable.

[11] Therefore, the Court grants the application for judicial review and returns it to another officer for it to be considered anew.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be granted and the matter be returned to another officer for decision anew. There is no serious question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4769-16

STYLE OF CAUSE: ELIZABETH BAILEY v MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 8, 2017

JUDGMENT AND REASONS: SHORE J.

DATED: SEPTEMBER 8, 2017

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