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Docket: CI 23-01-41847
(Winnipeg Centre)
Indexed as: Razir Transport Services Ltd. v. The Director of Employment Standards
Cited as: 2024 MBKB 157

COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

RAZIR TRANSPORT SERVICES LTD.,	)	
	)	Jason Kendall
applicant,	)	for the applicant
	)	
- and -	)	Tristan Sandulak
	)	Devin Johnston
THE DIRECTOR OF EMPLOYMENT STANDARDS,	)	for the respondent
	)	
	)	Judgment Delivered:
respondent.	)	October 25, 2024

TOEWS J.

INTRODUCTION

[1] This is an application for an order pursuant to s. 21(3) of ***The Worker Recruitment and Protection Act***, S.M. 2008, c. 23 (the "***Act***") to set aside a decision of the Director of Employment Standards (the Director) in which she refused to grant the applicant's application to be registered to recruit foreign workers in Manitoba (the Decision). The applicant is requesting that the court exercise its appellate powers under the ***Act*** and grant the application to be registered to recruit foreign workers.

[2] The applicant has brought a parallel application for judicial review to quash the Decision and require the Director to register it as an employer registered to recruit foreign workers in Manitoba. I will say at the onset of these reasons that the request for judicial review is not well founded given the broad right of appeal afforded by the ***Act***. In dismissing the request for judicial review, I adopt the position advanced by the Director in her brief at para. 50:

> It is recognized that judicial review is sometimes available in parallel to a statutory appeal on questions not covered by the appeal. In this case, the Act provides an unlimited right of appeal. There is no room left over for judicial review of matters outside the scope of the appeal.
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> ***Yatar v. TD Insurance Meloche Monnex***, 2024 SCC 8 (CanLII), at para 3

THE FACTS

[3] The facts are not complicated. The applicant is an employer that has previously been registered to recruit foreign workers pursuant to the ***Act***. The respondent Director is responsible for administering and enforcing the ***Act*** and is assisted by employment standards officers also authorized to administer and enforce the ***Act***.

[4] From April 23, 2021, to October 14, 2022, an employment standards officer conducted an investigation into the applicant to ensure compliance with the ***Act***. Based on the investigation, the officer concluded that he had reasonable grounds to believe the applicant had required foreign workers to make undocumented cash payments back to the applicant at the end of each month in contravention of the ***Act***.

[5] On January 30, 2023, the applicant filed a new employer registration application. As a result of the earlier investigation, the Director was not prepared to grant the application without first requiring the applicant to respond to the Director's concerns over

the cash payments made by the foreign workers to the applicant. The applicant's counsel responded to the concerns of the Director; however, the Director was not satisfied with the responses provided and denied the requested application.

[6] Pursuant to s. 21 of the ***Act***, the applicant appeals the Decision to this court. Additional facts will be referred to in the reasons that follow to the extent that it is necessary to do so.

THE ISSUES

[7] Having dealt with the issue of judicial review earlier in these reasons, the remaining procedural and substantive issues raised on this appeal can be summarized as follows:

a) The nature of this appeal and the applicable standard of review;

b) Determine the scope of the record to be considered in this appeal, including:

   i. The admissibility of surreptitious recordings the Director relied on in making the Decision to deny the application; and

   ii. The admissibility of the second affidavit of Hardeep Grewal, affirmed April 21, 2024 (Grewal Affidavit #2) as this affidavit was filed in support of the appeal and contained some evidence that was not before the Director when making the Decision.

c) Did the Director fail to accord the applicant with procedural fairness commensurate to the interests at stake?

d) The sufficiency of the reasons set out in the Decision;

e) The propriety of the way the applicant calculated the workers' pay rate; and

f) The remedy.

THE POSITION OF THE APPLICANT

[8] The relevant subsections of the ***Act*** provide:

> **Appeal of decision re licence or registration**
> 21(1) A decision of the director to refuse, cancel or suspend a licence or registration may be appealed to a judge of the Court of King's Bench by the person who
>
> (a) applied for, or held, the licence; or
>
> (b) applied to be, or was, registered.
>
> . . .
>
> **Powers of court on appeal**
> 21(3) On hearing an appeal, the court may
>
> (a) set aside, vary or confirm the decision of the director;
>
> (b) make any decision that in its opinion should have been made; or
>
> (c) refer the matter back to the director for further consideration in accordance with any direction of the court.

[9] The applicant submits that the legislative framework of the ***Act*** and particularly the powers granted to the court on appeal by subsection 21(3) of the ***Act***, renders this appeal a new matter and therefore the court owes no deference to the Decision made by the Director. Accordingly, the applicant states that this appeal may proceed on a *de novo* basis or in other words, the appeal before this court is a fresh hearing.

[10] The applicant challenges the Decision on the basis that the Director acted in breach of procedural fairness, alleging that her mind was made up even before the applicant was given a fulsome opportunity to respond to the concerns raised by the investigation conducted on behalf of the Director. In this regard the applicant specifically references

various exhibits to the first affidavit of Hardeep Grewal affirmed July 11, 2023 (Grewal Affidavit #1).

[11] The applicant references an email at exhibit B to the Grewal Affidavit #1 as demonstrating "a pattern of bias or confirmatory conduct" in that the employment standards officer writing the email had already made up his mind to deny the application before providing the applicant an opportunity to respond to the concerns of the Director, stating: "Your application has been reviewed and at this point we are not in a position to approve it."

[12] Similarly the applicant states this "pattern of bias or confirmatory conduct" is also demonstrated at exhibit H of the same affidavit where the same employment standards officer writes in an email to the applicant's counsel that while the officer indicates he would be willing to "arrange a time to discuss the matter in detail", he states that "our conclusion is …" and then proceeds to set out a number of conclusions including that the employer improperly changed a term and condition of the employment agreement, concerns about the correct payment of wages, and the failure to provide all information requested by the Director.

[13] The applicant also argued that the Director had failed to meet the statutory requirement to provide written reasons for refusing to register the applicant as required by subsection 12(2) of the ***Act***. The applicant argues that the reasons of the Director in respect of certain findings are "vague, ambiguous and non-specific". The applicant states in its brief, for example, the allegation in the Decision in respect of a failure to pay

vacation wages and general holiday hours "lacks the internal coherence that is required by the reasons of a decision maker." (para. 44)

[14] A further example advanced by the applicant in its brief takes issue with the allegation that there is a "material conflict" between the driver log and payroll records of a specific employee. The charge alleges that the driver log lists the employee working on general holidays whereas the payroll records list the employee working on other adjacent days rather than the general holiday. The applicant submitted "that despite the Director labelling this as a "material conflict" between certain records, it is unclear how that conflict, if it truly does exist, is material in its consequence." (para. 49)

[15] The applicant takes issue with the fact that an employee made surreptitious recordings which the Director relied upon to find that the applicant required the foreign worker to pay back the applicant the difference between his monthly earnings under the contracted rate of pay and what would be earned had the applicant paid $0.45 per kilometer. The applicant states that the surreptitious recording made without the applicant's knowledge is the only basis for making this finding and therefore given their surreptitious nature, the recordings ought not be admitted into evidence or should not be given any weight.

[16] It is submitted by the applicant that the Director failed to disclose the existence of the surreptitious recordings in a timely fashion. Furthermore, the applicant argues that the calculation of the employee's rate of pay based on the rate of $0.45 per kilometer rather than at the hourly rate set out in the employment agreement does not result in a rate of pay below the contracted rate. The brief details various industry practices which

were utilized by the applicant to arrive at the rate paid to the employee and that in the result the employee "was paid at a rate agreed to, and for the work actually completed." (paras. 51-75)

[17] The applicant submits the Decision to refuse to register the applicant was "based on an investigation before it began" and that there is no admissible or at a minimum, reliable evidence before the court from the Director.

[18] The applicant submits that the evidence is at best hearsay and "sometimes double or triple hearsay". (para. 77) The nature of the Director's evidence is such that the basis of "how the Director arrived at its reasons for refusal in the written reasons provided as its Decision was not intelligible, transparent or justified." (paras. 77-78)

[19] The brief sets out the applicant's argument that "the evidence is clear in the pattern of bias and confirmatory conduct that has rendered the Decision in breach of procedural fairness and offends the principles of natural justice." The applicant therefore submits the court should not only set aside the Decision (paras. 79-86), but also pursuant to the authority granted by subsection 21(3) of the ***Act*** grant the application to be registered. (paras. 87-89)

THE POSITION OF THE DIRECTOR

[20] The Director submitted that this appeal is neither a hearing *de novo* nor a judicial review on a "reasonableness standard". The Director takes the position that the appeal pursuant to s. 21 of the ***Act*** confers a statutory right of appeal and provides the court with specific powers at subsection 21(3). It is silent as to the standard of review or the nature of the hearing.

[21] Relying on the decision of ***Michele Santarsieri Inc. v. Manitoba (Deputy Minister of Finance)***, 2015 MBCA 71, the Director argued that where legislation is silent regarding the nature of a statutory appeal, there is a presumption in favour of review on the record rather than a *de novo* hearing. In that decision, Cameron J.A. held as follows:

> **32** In *Friesen*, Steel J.A. outlined several factors to consider when determining the nature of an appeal right intended by the Legislature.
>
> **33** The first consideration is the provision itself. Where the provision is silent as to the possibility of a hearing *de novo*, a presumption arises that the review is to be on the record (at para. 32).
>
> **34** A presumption having arisen, as it has in this case, Steel J.A. then identified other factors for the court to consider in its analysis. These include the nature of the decision appealed from, the statutory framework and legislative history of the legislation, and the scheme of the legislation as a whole, including the duties and expertise of the original decision maker. Other considerations include whether or not there is a legislative requirement that the administrative entity being appealed from keep a record or give reasons for its decisions.

[22] The Director stated that the presumption that this is an appeal on the record is consistent with the purpose and scheme of the ***Act*** and is confirmed by the following factors:

a) The Director has subject-matter expertise in foreign worker recruitment and protection and in employment standards administration and enforcement generally;

b) The Director has broad investigative powers pursuant to s. 19 of the ***Act***, and benefits from that regime that, among other obligations, requires the applicants to provide any information requested (s. 11(3)(e) of the ***Act***);

c) Section 12(2) requires the Director to provide reasons for refusing to register an employer, which is consistent with ***Canada (Minister of Citizenship***

and Immigration) v. Vavilov, 2019 SCC 65, regarding the importance of reasons where there is a right of appeal;

d) Since foreign workers are not required to be a party to an appeal pursuant to s. 22 of the ***Act***, only the Director is in a position to properly weigh and consider foreign worker's evidence at first instance;

e) The process provided in the ***Act*** is commensurate to the interests at stake; and

f) The applicant was provided with an opportunity to address the Director's concerns in accordance with the principles of procedural fairness.

[23] The Director further submitted a statutory appeal provision signals appellate standards of review and rebuts the presumption of a reasonableness review. On this basis the Director stated that the standard in this case is correctness with respect to questions of law, and palpable and overriding error with respect to questions of fact and mixed fact and law. The Director agreed with the applicant that the standard with respect to procedural fairness is correctness.

[24] The Director submitted that much of the record for the purposes of this proceeding is set out in the exhibits to the Grewal Affidavit #1, while the remainder of the record, including an explanation of the process followed by the Director, is contained in the affidavit of the employment standards officer Matthew Darragh, affirmed September 8, 2023 (the Darragh Affidavit).

[25] In respect of the recordings made surreptitiously by an employee in conversation with a representative of the employer, the Director submits that those recordings are part

of the record, and that Mr. Grewal was given an opportunity to respond to the recordings during an interview with an employment standards officer on July 20, 2022. The Director notes that the applicant through its counsel specifically asked for the recordings in their February 23, 2023 correspondence. The Director pointed out that the applicant has not contested the authenticity of the recordings, but has instead offered explanations as to the contents of the recordings.

[26] The Director submitted she has a broad discretion to consider relevant evidence and there is no requirement to be bound by the rules of evidence followed by the courts. The Director stated she was entitled to rely on the recordings as they are relevant and there is no reason to exclude them.

[27] In respect of their relevance, the Director submitted the recordings corroborate the foreign workers' claims that:

- They were paid based on the distance travelled and not by the hour as stipulated by the governing contract;
- They made undocumented monthly payments to the applicant contrary to the contractual conditions; and
- Job security was used by the applicant as leverage to foreclose objections to the repayment scheme.

[28] In this case, the Director argued that the recordings are a targeted effort to obtain powerful and persuasive evidence to corroborate the employee's account of the applicant's practices and that its probative value outweighs any prejudicial effect.

[29] The Director took issue with the admissibility of the Grewal Affidavit #2, in that it contains evidence that was not before the Director when she considered this matter except to the extent that it repeats evidence that was already provided to the Director in the Grewal Affidavit #1 and the Darragh affidavit. However, the Director stated that even if the Grewal Affidavit #2 is admissible before the court, the whole of that affidavit simply confirms the Director's conclusion that the applicant substituted a per kilometer rate for the hourly wage the applicant was required to pay.

[30] In respect of the applicant's concerns with respect to procedural fairness, the Director submitted that she provided multiple opportunities for the applicant to respond or seek further clarification of the Director's concerns over the way the applicant was paying its employees.

[31] As to the allegation of bias, the Director submitted that the record simply discloses the conclusions that the Director had arrived at as a result of his investigation in respect of the payment of foreign workers by the applicant and that these conclusions were disclosed to the applicant in order to allow it to demonstrate through its records and other submissions that there was compliance with the law.

[32] The Director submitted she disclosed the information to the applicant sufficient for the applicant to meet the case necessary for their application to be registered. On June 16, 2023, the employment standards officer by way of email, explicitly invited the applicant to discuss the concerns that had arisen as a result of the investigation, stating:

> Would it be possible to arrange a time to speak with you and the employer? We've raised a series of issues here and would like to provide the business the opportunity to respond prior to refusing [the application to register]
>
> (See Grewal Affidavit #1, exhibit I)

[33] The Director noted the applicant declined to seek further clarification of the Director's additional concerns and declined to provide any further information for the Director's consideration.

[34] The Director submitted that the duty of procedural fairness in administrative law is flexible and context-specific, which in the context of the inquisitorial procedure mandated by the ***Act***, ensured that the applicant was aware of the case to meet and that it had a full and fair opportunity to respond.

[35] In respect of the Decision itself, the Director submitted that in the context of the record as a whole, and the standard of proof set out in the ***Act***, the statutory requirement to provide written reasons has been satisfied. The Director submitted that she received compelling and credible allegations from foreign workers that the applicant was not complying with the ***Act***.

[36] The Director concluded that the documents supplied by the applicant either failed to disprove or actively support the allegations and the explanations provided by the applicant of its remuneration practices are unsupported, inconsistent, and implausible. The Director also concluded that the applicant improperly changed the terms of employment and based on that evidence, concluded that the applicant would not comply with the law or undertakings given to foreign workers.

ANALYSIS AND DECISION

[37] In view of my decision to dismiss the applicant's appeal and confirm the Director's decision, it is not necessary for me to consider the other remedies available to the court pursuant to the ***Act***. In this respect, I would simply note that even if I had found that

the Director's decision to refuse the registration could not be supported, I would be extremely reluctant to substitute my opinion for that of the Director and order the registration of the applicant. I say so on the basis that the Director has subject-matter expertise in foreign worker recruitment and protection and in employment standards administration and enforcement generally.

[38] Given the particular expertise of the Director in respect of the matters which the ***Act*** seeks to address, the court is not in the best position to make the decisions which the Legislature has primarily entrusted to the Director to make. The better course of action by the court is to remit the matter back to the Director with appropriate directions. I do not find it necessary to set out in what circumstances the court itself should order the registration of the employer under the ***Act***, but suffice it to say that despite the broad powers on appeal granted to the court pursuant to the ***Act***, the conduct of the Director would have to be particularly egregious for me to impose a remedy of that nature.

[39] Having already dealt with the issues of the applicability of judicial review and the appropriate remedy, my reasons in respect of the remaining issues raised on this appeal and identified at the onset of these reasons are set out as follows.

I. The nature of this appeal and the applicable standard of review

[40] In my opinion, the appeal here is on the record. An appeal on the record is consistent with the purpose and scheme of the ***Act***. The factors identified by the Director in her brief and set out earlier in these reasons, militate against a hearing *de novo*. The decision of this court relied upon by the applicant in ***Thorkelson v. The College of Pharmacists of Manitoba***, 2023 MBCA 69, is distinguishable on the basis that a *de*

novo hearing in ***Thorkelson*** was specifically mandated and held by the court to be consistent with the governing legislation.

[41] In respect of the standard of review on this appeal, ***Vavilov*** holds at para. 33:

> … [the legislature] may direct that derogation from the presumption of reasonableness review is appropriate by providing for a statutory appeal mechanism from an administrative decision maker to a court, thereby signalling the application of appellate standards.

[42] These appellate standards are summarized in ***Vavilov*** at para. 37 as follows:

> **37** It should therefore be recognized that, where the legislature has provided for an appeal from an administrative decision to a court, a court hearing such an appeal is to apply appellate standards of review to the decision. This means that the applicable standard is to be determined with reference to the nature of the question and to this Court's jurisprudence on appellate standards of review. Where, for example, a court is hearing an appeal from an administrative decision, it would, in considering questions of law, including questions of statutory interpretation and those concerning the scope of a decision maker's authority, apply the standard of correctness in accordance with *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, at para. 8. Where the scope of the statutory appeal includes questions of fact, the appellate standard of review for those questions is palpable and overriding error (as it is for questions of mixed fact and law where the legal principle is not readily extricable): see *Housen*, at paras. 10, 19 and 26-37. Of course, should a legislature intend that a different standard of review apply in a statutory appeal, it is always free to make that intention known by prescribing the applicable standard through statute.

[43] Accordingly, I find that the appellate standards of review as summarized in ***Vavilov*** apply in the hearing of this appeal with the available remedies identified at subsection 21(3) of the ***Act***.

II. Determine the scope of the record to be considered in this appeal, including:

a) The admissibility of surreptitious recordings the Director relied on in making the decision to deny the applicant's application to be registered under the ***Act***; and

b) The admissibility of the Grewal Affidavit #2, as this affidavit was filed in support of the appeal and contained some evidence that was not before the Director when making the Decision.

[44] The general rule is that the only evidence that was before the administrative decision-maker is admissible before the reviewing court, unless the governing legislation says otherwise. The policy rationale for this general rule is set out in ***Bell Canada v. 7262591 Canada Ltd. (c.o.b. Gusto TV)***, 2016 FCA 123 (QL), at para. 11, as follows:

> **11** The purpose of the general rule is two-fold:
>
> * *To respect the role of the administrative decision-maker*. The administrative decision-maker is the merits decider. It decides what evidence or information it should rely upon, it considers that evidence and information, and it makes findings of fact. That is not the role of the reviewing court. See *Bernard*, *Access Copyright* and *Delios*, all above.
>
> * *To further the role of the reviewing court*. The reviewing court must assess the administrative decision-maker's decision against the evidence and information the administrative decision-maker took into account. If certain of that evidence and information is withheld from the reviewing court, the review may be artificial and lead to inaccurate outcomes. See the discussion in *Canadian Copyright Licensing Agency (Access Copyright) v. Alberta*, 2015 FCA 268 at paras. 13-14.

[45] I agree with the position of the Director that the record in this case is found in the exhibits to the Grewal Affidavit #1 and the Darragh Affidavit. In addition, it is my opinion that there is no basis to exclude the surreptitious recordings from the record and the considerations of the Director in arriving at her findings set out in the Decision. The Director has a broad discretion to consider relevant evidence and as is the case generally with administrative decision-makers she is not bound to comply with the formal rules of

evidence. (See ***Canadian Recording Industry Assn. v. Society of Composers, Authors and Music Publishers of Canada***, 2010 FCA 322, at paras. 20-21)

[46] A review of the recordings clearly establishes their relevance in respect of several issues before the Director when considering whether to grant the applicant's application for registration. They corroborate the foreign workers' claims that the applicant:

- paid these workers on the basis of distance travelled and not by the hour as stipulated by the governing contract;
- received undocumented monthly payments from the workers contrary to the contractual conditions; and
- Used job security as leverage to foreclose objections to the repayment scheme.

[47] There is no general rule in civil proceedings excluding surreptitious recordings even in cases where the recording is made illegally. However, courts have exercised their discretion to exclude recordings of this nature where their prejudicial effect outweighs their probative value. (See ***Ostrowski v. Ostrowski***, 2021 MBQB 160)

[48] In this case, the applicant has total control over the relevant employment records and other documents needed for the purposes of the Director's investigation. The surreptitious recordings provide a way for the employees to corroborate their allegation that the applicant required undocumented cash payments from the employees and took steps to conceal that fact in its records. The Director's decision to admit and rely on the recordings is reasonable in the circumstances and consistent with the purposes of the ***Act***. There is no overriding policy consideration that should result in their inadmissibility.

[49] Although I have concluded that the Grewal Affidavit #2 does not form part of the record, I agree with the Director that even if I were to consider aspects of that affidavit as additional evidence at this appeal, this affidavit confirms various aspects of the Director's findings rather than detracting from them. For example, a review of that affidavit confirmed the Director's conclusion that the applicant substituted a wage rate calculated on a basis different from the hourly wage calculation the applicant was contractually required to pay. It is based on this different calculation that the applicant submitted it is appropriate for the employee to return "overpayments" (that is, the difference between the hourly rates and the lesser amount determined by the distance travelled) to the applicant.

[50] I agree with the Director that a review of the Grewal Affidavit #2 demonstrates the position advanced by applicant based on this affidavit is without merit. Even if this affidavit was admitted as part of the record for the purposes of this appeal, it does not provide any additional evidence that would alter the court's analysis of the issues on this appeal.

III. Did the Director fail to accord the applicant with procedural fairness commensurate to the interests at stake?

[51] I accept the Director's position that procedural fairness was provided to the applicant commensurate with the interests at stake. The Director set out her concerns to the applicant during his investigation and provided the applicant with several opportunities to address those concerns at various points in the course of the investigation.

[52] While the Director admitted that she did not provide the entirety of the investigation conducted on her behalf by members of her office, it was not necessary to do so in the circumstances of this case. The applicant was provided with the evidence of an employee in respect of the applicant changing a condition of employment and the demand for the repayment of cash to the applicant by that employee. The explanation and documents provided by the applicant to the Director do not refute the allegations and the applicant declined to seek clarification of the Director's outstanding concerns when invited to do so.

THE SUFFICIENCY OF THE REASONS SET OUT IN THE DECISION

[53] While the reasons for decision provided by the Director are brief, in my opinion they are sufficient given the nature of the investigation and the relatively low statutory threshold that the Director is required to meet in deciding whether to refuse the application to be registered. The Director may refuse to register an employer based on past conduct based on "reasonable grounds to believe". As provided for in s. 12(1) of the ***Act***:

> **Refusal to register**
> **12(1)** The director may refuse to register an employer if
>
> . . .
>
> (b) having regard to the past conduct of the employer, **there are reasonable grounds to believe** that the employer will not act in accordance with the law, or with the undertakings the employer has given in respect of employing a foreign worker;
>
> . . .
>
> (d) **there are reasonable grounds to believe** that an employee who will be engaged in foreign worker recruitment on behalf of the employer will not act in accordance with law, or with integrity, honesty or in the public interest.
>
> [emphasis added]

[54] "Reasonable grounds to believe" requires something more than mere suspicion, but less than the standard applicable in civil matters of proof on the balance of probabilities: ***Sivakumar v. Canada (Minister of Employment and Immigration)***, 1993 CanLII 3012 (FCA) (C.A.), at p. 445; ***Chiau v. Canada (Minister of Citizenship and Immigration)***, 2000 CanLII 16793 (FCA), at para. 60. In essence, reasonable grounds will exist where there is an objective basis for the belief which is based on compelling and credible information: ***Sabour v. Canada (Minister of Citizenship & Immigration)***, 2000 CanLII 16300 (FC).

[55] The decision here, when assessed in the context of the history of the proceedings, and the legal standard which the Director must adhere to, meets the requirements of the statutory duty to provide written reasons. As Bond J. noted in ***Ewanek v. Winnipeg (City of) et al.***, 2020 MBQB 98 (QL) at paras. 43-45:

> **43** The law in relation to sufficiency of reasons in the context of administrative decision making was addressed in ***Vavilov*** at paras. 81, 91, where the Supreme Court of Canada confirmed that ***Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)***, 2011 SCC 62, [2011] 3 S.C.R. 708 (***N.L.N.U.***), a case relied on by the respondents, remains good law.
>
> **44** Inadequacy of reasons is not a stand-alone basis for setting aside a decision (***N.L.N.U.*** at para. 14). A reviewing court must not assess an administrative body's reasons for its decision against a standard of perfection and must consider the history of the proceedings and the institutional context in which the decision is made (***N.L.N.U.*** at para. 18; ***Vavilov*** at para. 91). A reviewing court must consider the evidence and submissions of the parties before the administrative body (***N.L.N.U.*** at para. 18; ***Vavilov*** at para. 94).
>
> **45** The focus of judicial review is on the reasonableness of the decision and whether it was reached by intelligible and rational reasoning (***Vavilov*** at paras. 85–87). The ultimate question is whether the reasons considered in the context of the proceedings demonstrate that the decision "bears the hallmarks of reasonableness — justification, transparency and intelligibility" (***Vavilov*** at para. 99).

[56] In her brief, the Director set out the four reasons in the Decision for refusing to register the applicant and provided the procedural and documentary context of those reasons. In my opinion, those reasons considered in the context of the proceedings as set out in the Director's brief demonstrates the hallmarks of reasonableness identified by the court in ***Vavilov*** - justification, transparency and intelligibility.

[57] Following my review of the record, I accept the submissions made by the Director in her brief and through her counsel in these proceedings, that there is compelling and credible allegations forming the basis of the Director's reasonable grounds to believe that the applicant changed terms of employment with respect to an employee contrary to the requirements of the ***Act*** and through his records, actively took steps to conceal that fact from the Director. There is no basis for this court to interfere with the Decision and specifically with the reasons for refusal set out in the Decision. The record supports the reasons and the Director's conclusion based on the applicable standard that the applicant has provided incomplete, false, misleading or inaccurate information in support of its application, and that having regard for the past conduct of the applicant, there are reasonable grounds to believe the employer will not act in accordance with the law.

CONCLUSION

[58] Based on the forgoing reasons, the applicant's appeal is dismissed. This being a case of first impression under the ***Act***, I decline to award any costs.

_____ J.