



Regional Municipality of Waterloo

Regional Clerk Licensing Hearings

Minutes

Friday, May 8, 2015

10:00 a.m.

Room 216

150 Frederick Street, Kitchener, Ontario

Present were: A. Apfelbaum, A. Ashrafi*, T. Brubacher, K. Fletcher, N. McDonough, P. Putin*, M. Sima*, and A. Tessema*

1. Licensing Hearing Opening Address – Regional Clerk, Kris Fletcher

A. Ashrafi entered the hearing at 10:00 a.m.

Kris Fletcher, Regional Clerk, provided opening comments regarding the purpose of the hearings.

2. Ashrafi, Ahmad Zia – Waterloo Taxi Ltd. Taxi Driver #6300

K. Fletcher provided an overview of the hearing process for A. Ashrafi.

Evidence – A. Apfelbaum

Angelo Apfelbaum, Manager, Licensing and Enforcement, submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2013-2015

Exhibit B: Certified copies of the three actions noted in the defendant's extended driving record.

A. Apfelbaum stated that A. Ashrafi's extended driving record contains three actions being failing to come to a stop at intersection, speeding 75 KM/H in 50 KM/H zone, and speeding 95 KM/H in an 80 KM/H zone. These three actions brought six demerit points.
1869750

A. Apfelbaum noted that A. Ashrafi has had a clear file with no warnings since he began driving a taxi-cab.

In response to a question from K. Fletcher, A. Apfelbaum noted that it can take up to a year for convictions to show up on a driver's abstract, which is the reason for the amount of time between A. Ashrafi's actions and the hearing.

Reply Evidence from Defendant

Tim Brubacher, Hearing Clerk, swore in A. Ashrafi

A. Ashrafi explained that he unsuccessfully challenged the charge for failing to stop in court. In response to questions from K. Fletcher, he stated that his broker was informed of all of the actions at the time that they occurred but that the Region was not. K. Fletcher stated that she would prefer that drivers notify the Region of actions when they occur. She reminded A. Ashrafi of the impact that charges have on his insurance.

Closing Remarks and Recommendation – A. Apfelbaum

Based on the three actions, six demerit points, and the guidelines established by the Licensing and Hearings Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of nine (9) months to February 7, 2016, during which time monthly abstract checks will be conducted and the driver shall obey all the provisions of the Highway Traffic Act during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6300, Ahmad Zia Ashrafi:

- a) Ahmad Zia Ashrafi, the license holder, have his taxi-cab driver's license placed on probation for a period of 9 months to February 7, 2016, during which time monthly abstract checks will be conducted;
- b) For the period to February 7, 2016, shall obey all provisions of the Highway Traffic Act and;
- c) For the period to February 7, 2016, shall not receive any additional demerit points under the Highway Traffic Act;
- d) If found in contravention of any of these conditions, another hearing may be recommended where the probation period may be extended or the taxi-cab driver's license may be suspended or revoked.

K. Fletcher stated that this decision was based on the evidence provided by staff and past precedents. She advised A. Ashrafi to watch his driving speed, especially during

his probation. She requested that he advise his broker to attend future hearings for all drivers.

K. Fletcher outlined the appeal process for A. Ashrafi.

* A. Ashrafi left the hearing at 10:20 a.m.

3. Putin, Pavel – United Taxi Limited Taxi Driver #5051

*P. Putin and M. Sima entered the hearing at 10:20 a.m.

K. Fletcher provided an overview of the hearing process for P. Putin.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2013-2015

Exhibit B: Certified copies of the six actions noted in the defendant's extended driving record.

A. Apfelbaum stated that P. Putin's extended driving record contains six actions being disobeying a traffic signal, speeding 63 KM/H in 40 KM/H zone, failing to obey lane lights, unsafe moving that was reduced from careless driving, failure/improper use of seat belt assembly, and speeding 65 KM/H in a 50 KM/H zone. These six actions bring four demerit points. A. Apfelbaum noted that P. Putin has been driving for fourteen years with no records or warnings and it appears that he had some bad luck in 2013.

In response to a question from K. Fletcher, A. Apfelbaum stated that only the last action occurred in a taxi-cab.

Reply Evidence from Defendant

T. Brubacher swore in P. Putin.

P. Putin stated that he has learned from the incidents and assumes responsibility for the actions. He noted that the most recent action occurred when he was driving into Kitchener from the airport and was caught in the speed limit transitions.

In response to questions from K. Fletcher, he stated that his broker was informed of all of the actions at the time that they occurred but that the Region was not notified until he reapplied for his licence. K. Fletcher noted that she was concerned with the variety of the actions and recommended that P. Putin consider a refresher course on the Highway Traffic Act.

T. Brubacher swore in Mike Sima, President, United Taxi.

M. Sima stated that United Taxi tracks their drivers through their insurance and licences. He explained that they do not track infractions beyond three years so they have not taken action regarding P. Putin given the dates of the infractions.

In response to questions from K. Fletcher, he explained that they provide three to five weeks of training for new drivers and provide internal warnings to drivers when they accumulate actions and may make drivers responsible for any surcharges on insurance. He also noted that other than these actions P. Putin has been a good driver. He pointed out that it has been over a year since the last infraction.

Closing Remarks and Recommendation – A. Apfelbaum

Based on the six actions and four demerit points, concerns related to the variety of actions, and the guidelines established by the Licensing and Hearings Committee, A. Apfelbaum recommended that the Regional Clerk place the defendant's taxi license on probation for a period of ten (10) months to March 7, 2016, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of his taxi license shall be made.

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #5051, Pavel Putin:

- a) Pavel Putin, the license holder, have his taxi-cab driver's license placed on probation for a period of 10 months to March 7, 2016, during which time monthly abstract checks will be conducted;
- b) For the period to March 7, 2016, shall obey all provisions of the Highway Traffic Act and;
- c) For the period to March 7, 2016, shall not receive any additional demerit points under the Highway Traffic Act;
- d) If found in contravention of any of these conditions, another hearing may be recommended where the probation period may be extended or the taxi-cab driver's license may be suspended or revoked.

K. Fletcher stated that this decision was based on agreement with the staff recommendation. She noted that when charges occur she would like them to be immediately reported to the Region.

K. Fletcher outlined the appeal process for P. Putin.

*P. Putin and M. Sima left the hearing at 10:43 a.m.

4. Tessema, Allazar – Golden Triangle Taxi Driver #6631

*A. Tessema entered the hearing at 10:44 a.m.

K. Fletcher provided an overview of the hearing process for A. Tessema.

Evidence – A. Apfelbaum

A. Apfelbaum submitted the following evidence:

Exhibit A: A Copy of a probation order issued to A. Tessema dated April 4, 2014

Exhibit B: A Copy of the defendant's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles from 2013-2015

Exhibit C: Certified copies of the five actions noted in the defendant's extended driving record.

A. Apfelbaum noted that A. Tessema was on probation for a period of eleven (11) months from April 4, 2014 until to March 3, 2015. He stated that A. Tessema's extended driving record contains five actions being driving while holding a hand held communications device, speeding 135 KM/H in 100 KM/H zone, failing to have insurance card, disobey legal sign, and disobey traffic signal light. A. Apfelbaum explained that all of the actions, except the most recent one, were discussed at the 2014 hearing. The most recent action occurred shortly after his probation began and this was not reported to the Region at the time of the offense in accordance with the terms of his probation.

Reply Evidence from Defendant

T. Brubacher swore in A. Tessema.

In response to questions from K. Fletcher, A. Tessema stated that he has been driving a taxi-cab since 2013 and that the last three actions occurred while driving a taxi-cab. He noted that he is trying to improve his driving habits.

K. Fletcher stated that she is concerned with the number of charges that occurred in a short period of time. She asked if he informed his broker or owner of the hearing. He stated that he is not currently driving and will be looking to continue driving after this hearing.

Closing Remarks and Recommendation – A. Apfelbaum

A. Apfelbaum stated that A. Tessema has taken personal responsibility and that this is his only means of employment. However, he failed to report the incident during the probation period. A. Apfelbaum noted that there is a lack of a precedent in this situation. Based on these factors and best practices A. Apfelbaum recommended that the

Regional Clerk temporarily suspend the defendant's taxi license for a 1 day period and place the defendant's taxi license on probation for a period of twenty-four (24) months to May 7, 2017, during which time monthly abstract checks will be conducted, with the driver obeying all the provisions of the Highway Traffic Act in that period, and also with the driver not receiving any additional demerit points during that period. Any violation of those conditions would result in another hearing for the driver during which a recommendation for the suspension or revocation of their taxi license shall be made.

In response to a question from K. Fletcher, A. Apfelbaum stated that the by-law provides the Clerk with the authority to suspend taxi-cab licenses in emergency situations. K. Fletcher stated that she is concerned that this situation is not an emergency and that the Regional Clerk does not have authority to issue that long of a probation period

Regional Clerk's Decision

That the Regional Clerk take the following action with respect to Taxi-cab Driver License #6631, Allazar, Tessema:

- a) Allazar Tessema, the license holder, have his taxi-cab driver's license placed on probation for a period of twelve (12) months to May 7, 2016, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to May 7, 2016, shall obey all provisions of the "Highway Traffic Act" while operating a taxi-cab;
- c) the license holder, for the period to May 7, 2016 shall not receive any additional demerit points under the "Highway Traffic Act"
- d) if the license holder is charged under the "Highway Traffic Act" during the probation period, the license holder is required to immediately report such charges to the Manager, Licensing and Enforcement; and
- e) should the license holder be found in contravention of any of these conditions for the period to May 7, 2016, the licence holder be required to appear before a hearing of the Licensing and Hearings Committee where the probation period may be extended or the taxi-cab driver's license may be suspended or revoked.

K. Fletcher stated that this decision is based on the severity of the situation and the limited authority of the Regional Clerk.

She stated that any future hearings would be before the Licensing and Hearings Committee and that should another hearing be required A. Tessema should ensure that a representative from his brokerage is present to vouch for his character.

K. Fletcher outlined the appeal process for A.Tessema.

* A. Tessema left the hearing at 11:10 a.m.

5. Adjourn

K. Fletcher requested that A. Apfelbaum issue a request to all owners and brokers to be present when one of their drivers has a hearing.

The hearings adjourned at 11:11 a.m.

Hearing Clerk, T. Brubacher

Regional Clerk, K. Fletcher