

**LICENCE APPEAL  
TRIBUNAL**

**TRIBUNAL D'APPEL EN MATIÈRE  
DE PERMIS**



**Safety, Licensing Appeals and  
Standards Tribunals Ontario**

**Tribunaux de la sécurité, des appels en  
matière de permis et des normes Ontario**

Citation: Craig Munro v. Registrar, *Motor Vehicle Dealers Act, 2002*, 2018 ONLAT-MVDA 11072

Date: 2018-06-11  
File Number: 11072/MVDA

Appeal from a Proposal of the Registrar under the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Sch. B, to Refuse Registration

Between:

Craig Munro

Appellant

-and-

Registrar, *Motor Vehicle Dealers Act, 2002*

Respondent

**DECISION AND ORDER**

**Adjudicator:**

Avril A. Farlam, Vice-Chair

**Appearances:**

For the Appellant:

Self-represented

For the Respondent:

Diana Mojica, Counsel

**Heard in Toronto:**

May 14, 2018

## REASONS FOR DECISION AND ORDER:

### A. OVERVIEW

- [1] Under the *Motor Vehicle Dealers Act, 2002, S.O. 2002, c. 30, Sch. B* (“Act”) the Registrar (“respondent”) issued a Notice of Proposal to Refuse Registration dated November 1, 2017 (“NOP”) to refuse Craig Munro’s registration as a motor vehicle salesperson under the Act on the basis that his past conduct affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty. Specifically, the Registrar alleges that Mr. Munro’s past conduct includes a consistent pattern of non-compliance with the law resulting in numerous criminal convictions.
- [2] Mr. Munro appealed to this Tribunal.

### B. POST HEARING SUBMISSIONS

- [3] On May 22, 2018 the appellant unexpectedly sent to the Tribunal a post-hearing submission consisting of a change of dealership application dated May 14, 2018 showing a change of dealership from Carco to Automotive Wholesale Inc. cob as Toronto Auto Group and an email asking the Tribunal to accept it as confirmation of a change of dealership on his application to be licensed by the respondent. Respondent’s counsel submitted that this does not constitute evidence for consideration before the Tribunal.
- [4] I agree with the submission of respondent’s counsel. The change of dealership application is dated the same day that the hearing was held. If it existed prior to the hearing, the appellant should have brought this document to the hearing. He did not and no explanation was given as to why not. Therefore it was not accepted as evidence. However the document is relevant mainly to show which dealership the appellant works for. The fact that the appellant no longer works for Carco but currently works for the Toronto Auto Group was made clear in the evidence of the appellant’s coworkers who testified at the hearing. Therefore, even if this document had been accepted after the hearing as evidence, it would have had no impact on my decision.

### C. ISSUES TO BE DECIDED:

- [5] The issues to be decided are as follows:
- a. Does Mr. Munro’s past conduct afford reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty, specifically that Mr. Munro’s past conduct includes a consistent pattern of non-compliance with the law resulting in numerous criminal convictions?

- b. If so, is refusal to register Mr. Munro as a motor vehicle salesperson appropriate?

**D. CONCLUSION:**

[6] The respondent has established that Mr. Munro's past conduct affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty. Specifically, the Registrar submits that Mr. Munro's past conduct includes a consistent pattern of non-compliance with the law resulting in numerous criminal convictions.

[7] I order the Registrar to carry out the NOP.

**E. LAW:**

[8] Section 4 of the Act prohibits a person from acting as a motor vehicle dealer unless they are registered under the Act.

[9] Section 6(1) (a) (ii) of the Act provides that an applicant that meets the prescribed requirements is entitled to registration unless the past conduct of the applicant affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty.

[10] Section 9(1)(a) provides that the Registrar must provide written notice of the proposed refusal. The registrant may request a hearing by the Tribunal pursuant to section 9(2).

[11] Section 9(5) provides that the Tribunal shall hold the hearing and following the hearing, may direct the Registrar to carry out the proposal or substitute its opinion for that of the Registrar and the Tribunal may attach conditions to its order.

**F. EVIDENCE AND ANALYSIS:**

a. **Does Mr. Munro's past conduct afford reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty?**

[12] Mr. Munro does not dispute that he has the following convictions as an adult from 1990 to 2011 for the following offences committed in three different municipalities in Ontario:

- a. Possession of property obtained by crime over \$1,000 – November 1990
- b. Uttering threats – July 1991
- c. Assault – December 1991

- d. Failing to comply with recognizance – December 1991
- e. Failing to comply with recognizance – May 1992
- f. Failing to comply with recognizance – June 1992
- g. Attempting to obstruct justice – June 1992
- h. Failing to comply with recognizance – February 10, 1993
- i. Failing to comply with recognizance – February 27, 1993
- j. Possession of property obtained by crime under \$1,000. – May 1993
- k. Possession of a narcotic – December 1994
- l. Trafficking of a narcotic – May 1995
- m. Possession of a narcotic, failing to comply with probation – August 1996
- n. Trafficking of a narcotic – February 1997
- o. Trafficking in a schedule I substance (2 counts) – August 1998
- p. Possession of a schedule I substance for the purpose of trafficking – September 1999
- q. Attempted theft/Possession of a schedule II substance – October 2000
- r. Possession of the proceeds of property obtained by crime – September 2003
- s. Unauthorized possession of a prohibited device or ammunition/Possession of a prohibited or restricted weapon with ammunition/Possession of a loaded prohibited or restricted firearm/Possession of a firearm knowing serial number has been tampered with/Possession of a schedule I substance for the purpose of trafficking – March 2007
- t. Possession of a schedule I substance for the purpose of trafficking – October 2011

[13] Mr. Munro's last sentence was completed in 2013.

[14] It is also undisputed that Mr. Munro's sponsoring dealership for his application, Carco Auto Group, is no longer in business. Mr. Munro is currently employed by Toronto Auto Group doing various tasks but not sales.

[15] Thaya Gengatharan, the respondent's Manager of Registration, testified that the motor vehicle sales industry is highly regulated and one of the purposes of the Act is

to make sure the public is safe. In his application for a motor vehicle salesperson licence Mr. Munro said he would be employed as a “business manager”. After Mr. Munro’s file was reviewed, the respondent issued the NOP because of his past conduct. The primary concerns about Mr. Munro’s past conduct were 20 years of convictions for criminal conduct as an adult; the convictions show a pattern of criminal conduct becoming increasingly serious; the serious nature of the criminal convictions; and the circumstances in which the criminal convictions arose. She testified that Mr. Munro’s application is premature in this highly regulated industry because no criminal activity for the last five years is not enough to overcome the 20 years of criminal convictions.

- [16] Mr. Munro was incarcerated until 2013 when he completed his federal sentence. The respondent’s mandate is to protect the public, and approving Mr. Munro’s application would not fulfill that mandate. Ms. Gengatharan stated that he should wait more time before reapplying if his licence is refused by the Tribunal.
- [17] Another of the respondent’s concerns is that Mr. Munro’s 2015 application no longer has a sponsoring dealership, given that Carco Auto Group is no longer in business. At the time of the hearing, Mr. Munro had not submitted to the respondent a change to his application with the sponsorship of his current employer, Toronto Auto Group, although he provided a copy of an intended change application at the hearing.
- [18] Steven Bell, a salesperson, has worked with Mr. Munro at Toronto Auto Group for the last three years and knew Mr. Munro from Carco. Mr. Bell testified that he is familiar with Mr. Munro’s criminal history and that Mr. Munro has never tried to hide it and is not proud of it. He said Mr. Munro has been forthright since Mr. Bell has known him and is not at risk of doing things wrong. Mr. Bell signed on behalf of the dealership in Mr. Munro’s 2015 application and said he would be willing to sign off on any change application, but does not have authority to do so for Toronto Auto Group. He admitted he has not seen the NOP or the intended change application.
- [19] Martin Lubimiv has worked with Mr. Munro at the Toronto Auto Group about 50 hours a week for more than one year. He also knows Mr. Munro from Carco. He explained that Mr. Munro goes to rental car agencies, has vehicles washed and performs a lot of other duties. He has seen Mr. Munro’s criminal record and nothing in it alarms him. He testified that there are no indications he is still involved in crime. They joke about his past. He considers Mr. Munro to be prompt, reliable, honest and to have integrity. He does any task asked of him, and Mr. Lubimiv said he believes Mr. Munro has changed. He supports Mr. Munro’s application to be a motor vehicle salesperson.
- [20] Priscilla Munro, Mr. Munro’s mother, testified that he lived with her until his parole expired. She knows he has changed, supports his application and does not foresee any danger or downside to the public if he could sell cars.

- [21] Mr. Munro did not testify but provided written evidence including that he successfully completed educational programs while incarcerated; an Assessment for Decision from his correctional program officer dated 2012; a Parole Board of Canada Decision Sheet dated 2013; references and employment letters from past and current employers and his uncle; and other documents. Although these documents were not supported by evidence from the authors of them, they were marked as exhibits at the hearing on consent of the respondent and are accepted by me as evidence that Mr. Munro has made progress with his conduct.
- [22] The respondent submits that Mr. Munro's past conduct affords reasonable grounds for the belief that he will not carry on business in accordance with the law and with integrity and honesty because he has 20 years of convictions for criminal conduct as an adult, the convictions show a pattern of criminal conduct becoming increasingly serious and the criminal convictions are serious and show extensive involvement in drug trafficking and assault, and include a firearms offence. This application is premature because no criminal activity for the last five years is not enough to overcome the 20 years of criminal convictions. Also, Mr. Munro's parole for his most recent criminal conviction only ended some five years ago and his application is premature.
- [23] The appellant submits that society would be better served if he had meaningful employment. He has been working some 40-50 hours a week and there has been nothing that caused any alarm in others who work with him. Mr. Munro questions how much time is required to prove he has changed. The respondent's refusal of his licence is like serving another sentence and he has already paid his debt to society. Mr. Munro said he decided five years ago that he would not go back to the penitentiary and is asking for an opportunity to make a livelihood. He has taken every course offered to him while incarcerated and has learned how to resolve and not escalate conflict. His lifestyle consists of being at work or at home. Mr. Munro stated that, although he could make a lot more money selling drugs, he is asking for an opportunity to earn a living in a regulated industry that has a lot of checks and balances.
- [24] I find that Mr. Munro's past conduct does afford reasonable grounds for the belief that he will not carry on business in accordance with the law and with integrity and honesty. I have considered the whole of Mr. Munro's conduct in finding that the respondent has proven its case.
- [25] Although Mr. Munro has made progress with his conduct and has been lawfully employed in recent years, his 20 adult criminal convictions span 20 years and include criminal offences involving property obtained by crime, possession and trafficking of drugs, threats, breach of recognizance, assault, firearms, tampered firearm, and ammunition, criminal harassment, assault and threats. The most recent conviction was in 2011 and his sentence from that conviction ended in 2013.

- [26] I have considered, and do not accept, Mr. Munro's submission that being denied a motor vehicle salesperson licence at this time is like serving another sentence. Mr. Munro is able to be employed, just not as a motor vehicle salesperson at this time.
- [27] One of the purposes of the Act is protection and safety of the public. A motor vehicle salesperson discusses client's financial and other requirements and must be able to conduct business in accordance with the law and with integrity and honesty. Mr. Munro's criminal record is extensive, over a period of two decades and the convictions involve serious and escalating criminal behaviour involving violence, drugs and weapons among other behaviour. Members of the public must be able to be safe and feel safe and to have trust and confidence in their motor vehicle salesperson. The respondent has proved that the appellant's past conduct affords reasonable grounds for belief that the appellant will not carry on business in accordance with law and with integrity and honesty. Given the length and nature of his criminal record it has not been long enough since his last conviction and sentence for the appellant to prove that he has changed his conduct.

**b. If so, is refusal to register Mr. Munro as a motor vehicle appropriate?**

- [28] Even if the respondent has proven a ground of refusal, there can be cases when the imposition of conditions can adequately protect the public interest. However, in this particular case I do not find that conditions are an appropriate alternative to refusal. Respondent did not make submissions on any conditions that might be attached to the licence, if granted. Mr. Munro said he would be open to any conditions the Tribunal sees fit to impose.
- [29] Nothing in the evidence led me to believe that any conditions would be appropriate or effective because the impediment to registration is the extent and nature of Mr. Munro's criminal record.

**ORDER:**

For the reasons set out above I order the respondent to carry out the NOP.

LICENCE APPEAL TRIBUNAL

  
Avril A. Farlam, Vice-Chair

*Released: June 11, 2018*