

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *GT v Department of Transport and Main Roads* [2022] QCAT 187

PARTIES: **GT**
(applicant)

v

**DEPARTMENT OF TRANSPORT AND MAIN
ROADS**
(respondent)

APPLICATION NO/S: GAR012-22

MATTER TYPE: General administrative review matters

DELIVERED ON: 13 May 2022

HEARING DATE: 13 May 2022

HEARD AT: Brisbane

DECISION OF: Member Browne

ORDERS: **The application to stay a decision filed on 7 January 2022 is refused.**

CATCHWORDS: ADMINISTRATIVE LAW – ADMINISTRATIVE
TRIBUNALS – QUEENSLAND CIVIL AND
ADMINISTRATIVE TRIBUNAL – where application
filed to stay decision immediately suspending driver
authorisation – whether it is desirable to grant a stay –
whether grounds for making non-publication order under s
66 of the *Queensland Civil and Administrative Tribunal
Act* 2009 (Qld)

Human Rights Act 2019 (Qld), s 24, s 25
Queensland Civil and Administrative Tribunal Act 2009
(Qld), s 22, s 32, s 66
Transport Operations (Passenger Transport) Regulation
2018 (Qld), s 43(2)(b)

Deputy Commissioner Stewart v Kennedy [2011] QCATA
254

APPEARANCES &
REPRESENTATION: This matter was heard and determined on the papers
pursuant to s 32 of the *Queensland Civil and
Administrative Tribunal Act* 2009 (Qld)

REASONS FOR DECISION

- [1] Mr GT applies to the Tribunal to stay the operation of the Department's decision of 28 July 2021 to immediately suspend his driver authorisation number.¹
- [2] By letter dated 28 July 2021, the Department advised Mr GT that because he was charged with relevant offences under the *Criminal Code Act 1899* (Qld), his driver authorisation is immediately suspended.²
- [3] In support of his application to stay, Mr GT's legal representatives argue that he did not receive the Department's decision until 21 December 2021. Mr GT was held in police custody from 28 July 2021 until 16 December 2021 when he was released pursuant to a Supreme Court Bail Order. Mr GT says that he has worked as a taxi driver for many years and he has no other means of earning an income. The suspension of his driver authorisation will, as submitted, prevent him from earning a living. Mr GT disputes the charges and contends that the charges do not arise out of, or have any connection with, driving motor vehicles. Mr GT says there is no possible risk to anyone by virtue of pursuing his occupation as a taxi driver.

Should a stay be granted?

- [4] The Tribunal may stay a decision under s 22 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) ('QCAT Act') if it considers that it is desirable to do so, having regard to the interests of any persons whose interests may be affected, the decision-maker's submissions and the public interest.
- [5] The Tribunal may also consider other relevant matters including whether there is an arguable case, the balance of convenience and whether a refusal would render a favourable decision on the review a nugatory.³ The Tribunal is required to determine whether a stay is desirable within the meaning of s 22 of the QCAT Act.
- [6] In the present matter, the Department made a decision to immediately suspend Mr GT's driver authorisation under s 43(2)(b) of the *Transport Operations (Passenger Transport) Regulation 2018* (Qld) because he had been charged with 'disqualifying offences'. By letter dated 27 January 2022, the Department confirmed its decision to immediately suspend Mr GT's driver authorisation.
- [7] Mr GT's offences are serious and are alleged to have taken place in a domestic violence setting. The offences include assaults occasioning bodily harm, deprivation of liberty, unlawfully detain, suffocation, strangulation and torture.
- [8] In my view the charges raise serious issues or concerns about Mr GT's suitability to hold a driver authorisation until the offences have been dealt with by the court.
- [9] In relation to whether Mr GT has an arguable case, Mr GT is entitled to apply to the Tribunal to review the Department's decision of 27 January 2022. Should Mr GT exercise his right of review, he will have an opportunity to present relevant evidence to the Tribunal in support of his application for review.

¹ Application to stay a decision filed 7 January 2022.

² Letter dated 28 July 2021.

³ *Deputy Commissioner Stewart v Kennedy* [2011] QCATA 254.

- [10] I am not satisfied that the balance of convenience favours the granting of a stay in circumstances where there are serious charges alleged to have taken place in a domestic violence setting that have not been dealt with by the courts.
- [11] I have also considered Mr GT's rights that may be impacted under the *Human Rights Act* 2019 (Qld). I am not satisfied that any rights such as property rights for the purposes of s 24 and privacy and reputation rights for the purposes of s 25 that may be impacted in this matter outweigh the public interest in circumstances where serious charges have been made in a domestic violence setting and have not, to date, been finalised by a court.
- [12] Mr GT has failed to convince me that it is desirable to grant a stay in all of the circumstances of this matter. The application to stay a decision filed 7 January 2022 is refused. I order accordingly.

Non-publication order

- [13] It would not be in the interests of justice to identify the complainant or any information that could lead to the identification of the complainant. The Tribunal therefore prohibits the publication of any information that could identify Mr GT and the complainant.