



[2022] 1 F.C.R. D-11

CITIZENSHIP AND IMMIGRATION

STATUS IN CANADA

Permanent Residents

Spouse or Common-Law Partner in Canada class — Judicial review of decision by immigration officer refusing applicant's application for permanent residence as member of Spouse or Common-Law Partner in Canada (SCLPC) class — Applicant, citizen of Vietnam, entered Canada as student at University of Manitoba, where he met his wife — Applicant's wife permanent resident since 2017 — Application to sponsor the applicant refused pursuant to *Immigration and Refugee Protection Regulations*, SOR/2002-227 (IRPR), s. 125(1)(d) on grounds that applicant's wife failed to declare applicant as her common-law partner in her prior permanent residence application — Officer observing, *inter alia*, common-law partner defined as individual who is cohabiting with person in conjugal relationship having so cohabited for a year; individual excluded from SCLPC class under s. 125(1)(d) if their sponsor previously made permanent residence application and, at the time of that application, foreign national was non-accompanying family member of sponsor, was not examined — Respondent arguing that phrase "at the time of that application" referring to life of application — Applicant arguing phrase referring just to moment application submitted — Main issue whether Officer erred in his interpretation of phrase "at the time of that application" in s. 125(1)(d) — Officer reasonably interpreted s. 125(1)(d), applied it to facts in this case — Respondent relying on *de la Fuente v. Canada*, 2006 FCA 186, [2007] 1 F.C.R. 387 as authority wherein Federal Court of Appeal interpreted IRPR, s. 117(9)(d), provision similar to s. 125(1)(d) — Federal Court of Appeal found phrase "at the time of that application" to mean life of application — Federal Court of Appeal's holding in *de la Fuente* binding, relevant time for s. 125(1)(d) is continuum, over life of application — Both ss. 117(9)(d), 125(1)(d) similar in structure, purpose, share nearly identical language — Both relate to excluding applicant from inclusion in particular class of permanent residency — Dynamic nature of common-law partnerships not requiring distinct interpretation of s. 125(1)(d) — Officer not breaching procedural fairness — Application dismissed.

DO V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-5823-21, 2022 FC 1529, Manson J., reasons for judgment dated November 10, 2022, 11 pp.)