

New caregivers can apply for permanent residence outside of Canada

Written by special to the filipino reporter
Thursday, 14 April 2016 17:17

**IMMIGRATION
NEWSWEEK**



By: Atty. Henry Moyal

Q. I'm a live-in caregiver but did not complete my 24 months of work experience within the four years of my arrival.

I therefore never applied for permanent residence and my work permit has expired.

I do not want to return to the Philippines as my new employer really needs me.

How do I get my status back?

Can I apply to stay in Canada on humanitarian reasons?

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A. Yes, applying under compassionate grounds is an option but perhaps you should investigate whether you can apply under the new caregiver rules.

Upon review, it appears that a person does not need to hold a valid work permit to qualify.

That is not to say that those with no status will automatically be approved (since it is a violation of the rules to remain in Canada illegally) but there is no statutory requirement to apply for a work permit under this new class.

In my opinion, it perhaps opens the door for people who lost their status and do not currently hold a valid work permit.

It should be noted that the live-in caregiver class does indeed have a statutory requirement to hold a valid work permit at all times.

Second, if you worked for 24 months by now, it may be something you should research in lieu of the humanitarian application.

As well, you do not need to be in Canada to apply or qualify.

As long as you have met all the criteria, you can wait outside of Canada.

To qualify, you must:

1. Have qualifying work experience on a full-time basis (at least 30 hours per week) at the time application is received.

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2. Provide proof of your work experience.

You do not have to be employed at the time you submit your application.

Work experience does not need to be continuous but the work must have been authorized and work outside Canada does not count.

3. Must have a good level of proficiency in English in these four areas:

•listening,

•speaking,

•reading, and

•writing.

4. Must have a completed Canadian one-year post-secondary educational credential OR a completed foreign educational credential AND a satisfactory Educational Credential Assessment with minimum equivalency

Q. I graduated from George Brown College and obtained a post grad work permit for three years.

My work permit will expire in July 2016 and I want to apply for express entry.

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Will I be able to obtain my immigrant visa before my work permit expires?

If not, how could I renew the work permit?

A. If you have been following the recent trend in express entry draws, you will have seen that the last three draws included applicants with scores in the 400's.

This translates into applicants who were successful in qualifying without job offers.

Assuming you do not have a job offer you will likely score in this range.

As well, the federal minister has recently stated that he is going to correct this injustice to those who graduated from a Canadian program.

Up to now no additional points are given to international graduates.

However, it seems that will change and hopefully before your work permit expires.

If you do get selected under express entry by mid-2016, you must obtain a labour marker impact assessment (LMIA) to get it renewed.

An approved LMIA will be worth 600 points and will most likely get you over the hurdle into the next draw.

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Q. I'm a Canadian Citizen since 1980.

I often travel to the Philippines for business.

Last year I met a woman in Manila and she just gave birth to our child.

I do not wish to sponsor her but I want to bring the child to Canada.

Can I?

Do I need to sponsor the child?

How do I file the application since I spend most of my retired years abroad?

A. First things first.

The child does not need to be "sponsored."

The child was born to a Canadian father and therefore the child is a Canadian Citizen.

It is irrelevant if you want to sponsor the mother of the child.

You now need to initiate the process for proof of citizenship of the child.

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If you are in Canada, then this can be done via the Sydney, NS processing centre.

If abroad, you can contact the local Canadian Embassy but in my experience that process will extend processing times an additional six months at least.

Atty. Henry Moyal is a certified and licensed immigration lawyer in Toronto, Ontario.

The above article is general advice only and is not intended to act as a legal document.

Send questions to him by e-mail: canada@moyal.com or call toll-free: 1-888-847-2078.