

Some Tips to Avoid CIC's 'High Error Rate'

Earlier this month, an article came out in the Toronto Star reporting the existence of a "high error rate" in the processing of immigration applications. The article by Toronto Star reporter Nicholas Keung on 5 January 2015 states in part:

The human errors — staff failing to use correct form letters, address missing documents and provide accurate timelines, among other shortcomings — could not only cost individual applicants a chance to live and work in Canada but affect the "efficiency of the system" and create unnecessary backlogs.

"An important area of concerns resides with the letters. The number of request letters not sent, sent incomplete or unclear at initial stage and later on create a negative impact on both clients and the Case Processing Centre (in Vegreville, Alta.)," said an evaluation of operations at Vegreville. It was one of three internal reports obtained under an access to information request.

Having practiced immigration law for at least eight years now, this hardly comes as a surprise as I see and encounter these errors very frequently. In the past, I simply attributed these to expected human errors, since immigration officers, mailroom clerks and call centre agents are only humans after all who commit mistakes like the rest of us.

In the past year or so however, I have been seeing a disturbingly high rate of human errors which almost come close to setting a curious pattern. For instance, I have been seeing many cases of immigration applications being refused for alleged "non-compliance". The refusals were due to the alleged non-response to mails sent by CIC to applicants and their families. The applicants and their families on the other hand, insist that they never received those letters requesting further information, but almost all of them received the refusal letters with no delay.

In some cases, CIC may reopen the refused application and give the applicant another chance to comply with further requirements. In other cases however, requests for reconsideration are denied and applicants are simply asked to resubmit a new application if they wish to have any new information considered. In a number of cases, the applicants are forced to resubmit a new application to avoid losing status since there is no clear timeline as to when CIC will decide on administrative requests to reopen or reconsider an application that had already been refused.

Since only permanent residents and refugee claimants have a right of appeal, the only formal avenue of appeal for refused immigration applicants is to file an application for leave and judicial review with the Federal Court. Aside from the costs and further delays involved, clients are often discouraged upon learning the nature of a judicial review. That is, a Federal Court judge can only review the fairness or legality of an immigration officer's decision and at best, can only send the application back to another officer for redetermination. Thus, even if one wins at the Federal Court, there is still the possibility of being refused by another immigration officer based on similar or other grounds. Understandably, only the most patient of clients and those with the deepest pockets, can afford to take this expensive and circuitous route.

Hence, many unjust refusals arising from the "high error rate" of CIC decision-makers, go unchallenged and are simply repeated to other hapless applicants.

It is therefore welcome news that internal reviews are being conducted and are discovering these longstanding problem in Canada's immigration bureaucracy. For even the seemingly tiniest clerical mistake can lead to serious consequences and ruin the lives of unfortunate applicants and their families.

Is there anything that can be done to avoid being prejudiced by these processing errors? Certainly. Although nothing can guarantee perfection or a smooth-sailing ride, some measures can be taken to protect oneself and minimize the negative impact of these errors.

Be Thorough

In filling up the required CIC forms, please ensure that all information required are provided. Be as accurate and as thorough as possible especially with regard to names, dates, work and address history, etc. If you provide complete and accurate data at the outset, there will be no need for CIC to send follow up communications requiring corrections or clarifications.

Also, try as much as possible to include all required forms and supporting documents to avoid the need for mail room clerks and immigration officers missing other supplementary documents that you may have sent after the initial package was submitted.

Be Organized

In addition to being thorough, it would greatly help if the documents are properly organized and logically arranged. The CIC document checklists are a useful tool in organizing the documents; a cover letter with a table of contents could be another.

Keep copies of all communications sent to and received from CIC.

Take note of expiry dates of important documents such as passports and work permits and ensure that you will apply to renew these documents well in advance to avoid losing temporary resident status.

Be Proactive

Once the application package is submitted, take note of the processing times. Exercise due diligence. Contact the CIC call centre to follow up the status of your application or monitor the online status on the CIC website at reasonable times and intervals. When contacting CIC call centre agents, document the day, time, name of agent and information provided. If you are not satisfied with the response received from an agent, you may try calling again to speak with another agent who may be able to provide a more helpful response.

I hope that the above will somehow help to avoid problems with existing or future immigration applications. If problems still arise, you should consult with an experienced and trusted immigration professional at the earliest opportunity.

Meanwhile, here's wishing everyone a happy, healthy, peaceful and prosperous 2015!

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