

How to Avoid Losing Temporary Resident Status

By Maria Deanna P. Santos

Despite the changes to the Live-in Caregiver Program (LCP) in the last few years that were meant to improve the situation of its participants, there are still many caregivers who fail to complete the program or end up losing their temporary resident status. Upon further inquiry, it turned out that many of these caregivers were either terribly misinformed or had no knowledge of even the most basic requirements of the *Immigration and Refugee Protection Act* (IRPA) and its regulations in maintaining their temporary resident status in Canada.

Thus, I hope that the following review of the most basic requirements of IRPA as they relate to participants of the LCP will help avoid further instances of caregivers inadvertently losing their temporary resident status.

1. The initial LCP work permit issued by an immigration officer to a caregiver upon arriving at the airport is an employer-specific work permit. This means that the caregiver is only authorized to work for the specific employer named on the work permit.
2. If, for any reason, the caregiver cannot anymore work for the employer named on the work permit, the caregiver cannot work for another employer right away and using the previous employer-specific work permit as basis. This is a clear violation of IRPA and can render the caregiver inadmissible to Canada.
3. If the caregiver leaves the employer named on the work permit, the caregiver will need to find another employer who will then apply for a labour market opinion (LMO) from Service Canada. Once the LMO is granted, the employer will need to provide the prospective caregiver with a copy of the LMO so that the caregiver can apply for a new employer-specific work permit from CIC.
4. The issuance of the LMO by Service Canada does not authorize the caregiver to start working for the new employer. The caregiver will still have to wait for the new employer-specific work permit before starting to work for the named employer.
5. Whether or not the caregiver is changing employers, he or she must apply for a renewal of the work permit prior to the expiry date of the previous one to ensure that he or she will maintain their temporary resident status in Canada.
6. If the processing of the work permit renewal application is delayed and the previous work permit expires before a new one is issued, the caregiver will have implied status.
7. Implied status means that the caregiver can continue working under the terms and conditions of the previous work permit.
8. Implied status ends upon receipt of the decision of CIC granting or refusing the work permit renewal application.
9. If the caregiver has left a previous employer but has not found a new employer prior to the expiry of his or previous work permit, the caregiver can apply for a bridging extension which can be issued for a maximum of two months.

10. When the LMO for the new employer is issued after the expiry of the previous work permit but before 90 days have passed, the caregiver will need to apply for a restoration of temporary resident status in addition to the work permit renewal application. The restoration fee is \$200 and the work permit renewal processing fee is \$150 for a total CIC processing fee of \$350.
11. If the restoration and work permit renewal applications are submitted beyond 90 days from the expiry of the previous work permit, the application will be refused.
12. For those who have completed the 24 months of full time live-in caregiving work within 4 years of arriving in Canada, the caregiver must submit an application for an open work permit along with the LCP permanent residence application.
13. If the previous work permit expires before the open work permit is granted, the caregiver will have implied status as long as the LCP permanent residence and open work permit applications were submitted prior to the expiry of the previous work permit.
14. Implied status in this case allows the caregiver to continue working for the last employer named in the previous work permit. It does not authorize the caregiver to work for any other employer.
15. It is only when the open work permit is issued will the caregiver be able to legally work in any occupation for any employer in Canada.
16. It must be noted however, that the open work permit also has an expiry date. If the LCP permanent residence application has not been granted by the time that the open work permit is about to expire, the caregiver will have to apply for a renewal of the open work permit prior to the expiry date of the last one. Implied status will also apply if the last open work permit expires before a new one is issued as long as the renewal application was submitted prior to the expiry of the previous work permit.
17. It is thus very important to note the expiry date on the work permit as this will determine when the renewal or restoration application should be submitted.
18. If the open work permit application is not included in the LCP permanent residence application and the previous LCP work permit has expired, the LCP permanent residence application will be refused because the requirement of maintaining temporary resident status has not been met.
19. The work permit only allows the caregiver to work legally in Canada. If one wants to travel outside and return to Canada, the caregiver must first obtain a temporary resident visa (if coming from a visa requiring country).
20. Although immigration officers have some discretion to grant an exemption from inadmissibility or any violation of IRPA on humanitarian and compassionate (H&C) grounds, this may not be granted if the officer is not satisfied that there are sufficient H&C grounds to justify the exemption.

The above are just some of the most basic immigration regulations and guidelines which must be clearly understood by all LCP participants to avoid losing their temporary resident status while awaiting the decision on their permanent residence applications. These are meant to provide legal information only and not specific legal advice. If you or someone you know, have a case-specific issue that is not addressed by any of the above guidelines, it is strongly recommended that you consult a trusted immigration legal advisor as soon as possible.

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