

Visitor Status Not a Guarantee to Long-Term Canadian Residency

By Maria Deanna P. Santos

Time and again, I receive inquiries on how to “convert” one’s visitor status into a work permit or permanent resident visa while here in Canada. Many people tend to assume that once they are able to obtain a visitor visa to enter Canada, it would be much easier to work on their “papers” while inside the country rather than to apply at a visa office (i.e. outside of Canada). It also does not help that the current processing times for permanent resident applications at visa offices like the Canadian Embassy in Manila for instance, is now taking about five years to complete. Any quicker alternative to land on Canadian soil therefore becomes a much more attractive option.

Depending on the individual’s personal circumstances, the above assumption may not necessarily hold true and may in some cases, prove blatantly false. It therefore becomes a source of disappointment and/or frustration for many to realize that converting one’s status from a visitor to a worker or permanent resident is not as simple as they may have initially thought. Hopefully, the following will help clarify some misconceptions:

Visitor status is allowed only for a maximum period of six months at a time, regardless of the validity period of one’s temporary resident visa. One can however apply for an extension, which may or may not be granted depending again, on the personal circumstances of the applicant. While the extension application is pending, one is deemed to have implied status, provided that the application was submitted prior to the expiry of the initial authorized stay. But as soon as a decision is received and the extension application is refused, the applicant is deemed to have lost status and must leave Canada immediately.

To convert one’s visitor status into a work permit on the other hand, one must first obtain a genuine job offer from a Canadian employer. The Canadian employer will then have to apply for a confirmation of the job offer (a positive labour market opinion or LMO) from Service Canada. The confirmation will be granted if the reviewing officer is convinced not only of the genuineness of the job offer but that sufficient recruitment efforts were taken to hire Canadians and permanent residents for the position and that there is a current labour market shortage that the foreign worker is seeking to fill. Once an LMO is obtained, the foreign worker will use this to apply for a work permit.

An initial work permit application however, must be applied for at a visa office or at a port of entry. The option of applying at a port of entry is only available to applicants coming from visa-exempt countries. Since the Philippines is not a visa-exempt country, Filipino work permit applicants who are in Canada on a visitor visa must apply at the nearest visa office, i.e. the U.S.. If called for an interview, the applicant must be able to travel to the U.S. on the scheduled interview date. This often becomes a problem if the

applicant has no U.S. visa as it can prove difficult to apply for a U.S. visa from Canada if one does not have permanent resident (or at least a worker or student) status here. Therefore, it may be a smart move to also obtain a U.S. visa from Manila prior to coming to Canada if part of the plan is to later obtain a worker, student or permanent resident status.

There is also the option of applying for a student visa once the applicant has received an acceptance for full time studies from an accredited educational institution for a period of at least six months. Similarly, an initial study permit must be applied for at a visa office outside of Canada.

It must be noted that the option of applying for a work permit, study permit or to change conditions from within Canada is generally available only to those who initially entered Canada on valid work or student visas and later wish to renew the same.

Applications for permanent resident status are likewise generally submitted to visa offices where the applicant is a national and/or has been legally residing for at least a year. Inland permanent resident applications are only allowed for those falling under the Live-in Caregiver Class, the Spouse or Common Law Partner in Canada class, the Permit holder class, Refugees and Protected Persons, and those seeking permanent resident status based on Humanitarian and Compassionate grounds. It must be noted however, that there are specific legal requirements for each class which may not be typically satisfied by all permanent resident applicants. Please be wary of any advice received which encourages lying or making up stories to qualify under any of the inland categories. Misrepresentation is a serious offence under Canadian immigration law. It could lead to removal proceedings even long after one has obtained permanent resident status or even Canadian citizenship.

It is therefore strongly advised that one must think and assess the situation very carefully before resigning from one's job or selling everything one owns in the home country after obtaining a temporary resident visa to visit Canada. A temporary resident (visitor) visa is not a guarantee to obtaining long-term legal status in Canada. Please do not be misled by claims to the contrary.

Canada is a beautiful country and offers many opportunities. But it is doubtful that this will mean anything much if one is constantly living in fear and uncertainty.

Have a wonderful summer!

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