

## **Avoiding CIC Refusals Due to Non-Compliance**

Although I have discussed this issue in a previous article, the recent spate of CIC refusals due to alleged non-compliance with CIC instructions prompted me to resurrect this topic. Hopefully, this will save applicants from suffering similar grief that others had to undergo needlessly.

Summer being a time when many government workers are taking vacations or simply enjoying the nice weather, many could be getting too relaxed (i.e. careless) or too stressed out with the sudden deluge of work left behind by the vacationers. Hence, mistakes may even more likely occur if applicants will not put their best foot forward in ensuring that they have made things as easy as possible for any officer who will review his/her application.

First of all, I find it quite bizarre to learn of CIC refusals based on "non-compliance" after the applicants allegedly fail to respond to instructions for further documentation from CIC. How can this happen when it is abundantly clear that most applicants are only too eager to obtain a final decision on their application and are thus more than willing to immediately provide whatever CIC will require. In most of these cases, the applicants and their families insist that they never received those letters requesting further information hence their failure to respond. If the applicants are telling the truth, then the problem lies either in the postal or email system, or in the CIC bureaucracy itself.

In some of these cases, CIC may reopen the applications and give the applicants another chance to comply. In other cases however, requests for reconsideration are denied and applicants are simply asked to resubmit new applications if they wish to have any new information considered. Some applicants are thus 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 to 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 about 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 CIC 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 administrative errors go unchallenged and are simply repeated to other hapless applicants. It is therefore welcome news that internal reviews are supposedly being conducted and trying to resolve these longstanding problems in Canada's

immigration bureaucracy. For even the seemingly minor clerical mistake can lead to serious consequences and ruin the lives of unfortunate applicants and their families.

Although nothing can guarantee perfection or a smooth-sailing ride, especially when one deals with a bureaucracy, some measures can still be taken by the applicants themselves to avoid or minimize the negative impact of these errors. These include the following:

### *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 or shorter validity period for immigration documents.

### *Be Proactive*

After the application package is submitted to CIC, keep track and 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 application 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 be helpful in avoiding the likelihood of being caught by administrative errors involving immigration applications. If problems still arise, you should consult an experienced and trusted immigration professional at the earliest opportunity, to minimize the risk of a refusal and/or devise an appropriate legal strategy for your particular situation.

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