

Renewing permanent resident card can be challenging

Written by special to the filipino reporter
Saturday, 31 January 2015 11:56

**IMMIGRATION
NEWSWEEK**



By: Atty. Henry Moyal

Q. I became a permanent resident in March 2010 with my wife and daughter.

We entered Canada for over a few months and returned to the Philippines in May 2010 to look after our business.

We have been back to Canada several times over the years but we have not accumulated the required 730 days to renew our permanent resident cards.

They will be expiring soon.

To make matters worse, I seem to have lost my daughter's card.

She is having a problem attending school as she has no card.

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I don't know what to do?

Do I renew the cards now even if I don't have the two years of residence?

Can I apply for a new card just for my daughter as it was lost?

A. Your case is common.

While each person must decide on how to proceed from here on an individual basis, the fact that you have violated the "two out of five rule" is nothing new.

By way of background, pre-2002, the rule was that permanent residents were required to remain in Canada for six months out of every 12 months.

After 2002, Canada Immigration was more lenient requiring only 730 days out of the last five years.

Apparently though, the three year period of permissible absence is not sufficient in this global economy.

That being said, the PR card renewal application requires you to list all absences from Canada and if you have not accumulated the 730 days you may face a problem.

It is possible to overcome the rule under humanitarian and compassionate grounds but recent cases show that a strict set of criteria must be met.

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In my opinion, if you are not going to renew the card for all members then do not submit a replacement card for your daughter as the criteria is the same.

By looking at the "lost card" application, it still requires one to list all absences.

The fact that she does not have a card only means she cannot travel into Canada.

It does take someone's status away.

She is still a permanent resident now and even after expiry.

The card is merely an identity document.

It does not confer your status as a permanent resident and she should have no problem attending school.

Q. I became a permanent resident of Canada in 2000.

A year after, I travelled to Los Angeles and met a woman.

We married and lived together for a decade.

We recently divorced and I want to return to Canada to live.

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My immigrant visa has however expired and I have not returned to Canada since my departure in 2001.

Can I simply enter Canada on my U.S. passport?

Will they question me about abandoning permanent residence?

I know that I left Canada and lost my permanent residence but how do I get it back?

A. You have not “lost” your permanent residence status.

The fact that you have been away for a decade does not mean that your permanent residence has disappeared.

Under new rules, it is possible for you to maintain your resident status by returning to Canada and complying with the new residency regulations.

If you are truly serious about returning to Canada you should not have a problem but it must be done properly.

After residing in Canada for the requisite time period you will be eligible to apply for Canadian Citizenship.

Best to obtain professional assistance upon arrival to Canada.

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Q. I entered Canada five years ago on a work permit to work as a food attendant in Alberta.

My work permit was under the low skills program.

I have a new employer who wants to hire me as a manager.

If I get a LMIA for that position, can I apply for permanent residence under Express Entry?

A. From the brief information provided, I would say, no.

Your work experience in Canada is not skilled enough to qualify under the Canada Experience Class and therefore you cannot enter the Express Entry pool.

You have not mentioned much about your prior work or if you have a PNP.

Assuming you have no other prior skilled experience, I suggest you work in Canada for at least one year as a manager (with the LMIA you just obtained) and then you could qualify under CEC to enter the Express Entry pool.

Q. I need to submit a police clearance from the NBI, Philippines for immigration purposes.

I have no convictions but the notation says "No Criminal Record" instead of "No Record on File."

Should I be worried?

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A. Perhaps.

If the NBI clearance does not say “No Record on File” or “No Derogatory Record,” you may have a problem.

In your case, it says “No Criminal Record” which likely means that something happened in the criminal sense or you were charged with some offense but it did not end up as a conviction.

If so, you need to get all court documents to determine what happened and details of the charges.

It is important to know that a person can still be inadmissible to Canada even they were never convicted.

Under Canadian Immigration law, if a person committed an act that is a crime in the place it was committed and that if it happened in Canada would be a criminal offense, they could be refused entry to Canada.

As such, you must look at the foreign offense and see if there is a Canadian equivalent that is a crime under the criminal code.

Q. I’m a Canadian Citizen.

I met my first wife in 2012 and we married shortly thereafter.

I sponsored her and she obtained her immigrant visa in 2013.

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The marriage unfortunately did not work out and we divorced.

I now met another woman and I am thinking of marrying her soon.

Will I have a problem sponsoring her?

A. Yes, you need to wait until the three year period after first wife's landing before you can sponsor second wife.

As well, if the first wife collected welfare you will in default and an ineligible sponsor until you repay the amount given to her.

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.

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