

PR Card Facts and Foibles

After having gone through hoops to obtain their much-coveted status in Canada, many immigrants sadly remain ill-informed on some important issues relating to their status, including the issuance or renewal of permanent resident (PR) cards.

When PR cards were created under the *Immigration and Refugee Protection Act (IRPA)*, many erroneously thought that as long as they possess valid PR cards, their status as permanent residents will be safe. Conversely, some are surprised to learn that the lack of a valid PR card will not automatically negate one's PR status.

The present law requires permanent residents to meet the residency obligation of two years (or 730 days) within every five-year period to maintain their PR status. The two-year within every five-year period residency requirement to maintain PR status is a rolling requirement, i.e. the five-year period refers to the five years from the date of entry, hence it changes every time a PR reenters Canada. Moreover, the residency requirement only becomes subject of scrutiny if one reenters Canada, applies for a PR card renewal or for a PR travel document (PRTD).

Under the *Immigration and Refugee Protection Act (IRPA)*, the residency obligation may be satisfied in any of the following ways:

- actual physical presence in Canada;
- if outside Canada accompanying a Canadian citizen spouse or common-law partner or is a child accompanying a parent;
- if outside Canada and employed full-time by a Canadian business or in the public service of Canada or a province; and
- if an accompanying spouse, common-law partner or child of a permanent resident who is employed full-time by a Canadian business or is in the public service of Canada or a province.

The burden of proving that one has satisfied the residency requirement falls on the PR applicant. Therefore, if there is no adequate evidence provided to support one's residency claim, this could result in longer processing delays (as further investigation and/or more documentation will be required) or worse, a refusal of the application and subsequent revocation of one's PR status. The revocation of PR status can be appealed to the Immigration Appeal Division (IAD) of the Immigration and Refugee Board. Aside from questions of law and possible denial of natural justice, the IAD also has jurisdiction to consider humanitarian and compassionate grounds in light of all the circumstances of the case. However, the chances of succeeding on appeal will depend on the evidence presented and the presiding board member's weighing of all factors involved.

In some cases, permanent residents who are planning to travel outside Canada but whose PR cards are about to expire are not always aware that the PR card renewal processing times can be lengthy, and must therefore be planned for well in advance.

The longer processing times for PR card renewals had been partly attributed to stricter scrutiny being conducted by Immigration, Refugees and Citizenship Canada (IRCC) of the applicant's compliance with PR residency requirements. Thus, applications with fraudulent residency claims have unfortunately prejudiced everybody else, even those not guilty of similar activity.

While IRCC used to process PR card renewal applications urgently if submitted at least three weeks in advance and with confirmed plane tickets, this is not anymore the case. IRCC had since imposed stricter guidelines on who may qualify for urgent processing. The IRCC website states that to qualify for urgent processing, the applicant must show that the PR card is needed within the next three months for one of these reasons:

- a job opportunity or work related to the PR's current job
- the PR's own serious illness or that of a family member
- the death of the PR's family member

Even if one qualifies under any of the above reasons, IRCC cannot guarantee that the application will be processed urgently or that the new PR card will be issued on time. The following documents are also required for urgent processing:

- plane ticket or itinerary showing the destination and dates of travel
- proof of payment for travel showing the date, full amount and method of payment
- letter explaining the reason for the urgency and
- proof of urgency (i.e. a doctor's note, death certificate, letter from employer, etc.

If the urgent processing request is not granted for any reason, and the PR needs to leave immediately, the PR still has the option of applying for a permanent resident travel document (PRTD) from a visa office outside Canada. Like the PR card renewal application however, this application may be subject to processing delays hence there is no guarantee when a PR will receive a PRTD that will authorize reentry to Canada.

A situation or action that could spell doom for one's permanent resident status, PR card renewal or PRTD, is misrepresentation. If it turns out that there was any misrepresentation of a material fact made in one's application for a PR card, PRTD or in the PR application itself, this can be used as a ground to initiate admissibility proceedings and may eventually lead to removal from Canada. Some common examples of misrepresentation involve falsified residence or travel history, undisclosed marital status or criminal records.

Awareness of these issues may also serve as a reminder that permanent residence in Canada is not as *permanent* as some might think. Clearly, the Canadian government may take steps to revoke one's permanent residency whenever certain conditions are not met or based on relevant legal or public policy considerations.

This article is meant for legal information purposes only and not intended to provide specific legal advice. You should consult a legal professional to discuss your particular circumstances.

On a personal note, I would like to wish my beloved niece, Francesca Bernardo, a very happy birthday! We love and miss you so much!

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