

**VISITING CANADA**  
***The Elusive Doormat***

by DAVID AUJLA, CANADIAN IMMIGRATION LAWYER

Whether the Canadian welcome mat remains at the door or whether it is rudely yanked from under the feet of a prospective visitor, depends where the visitor calls home.

Each year Canada opens its doors to millions of visitors who, as holders of the “temporary resident visa”, come to travel, work or study here.

The temporary resident visa was created to make it clear that there is a distinction between the basis upon which a foreign national seeks entry into Canada, (that is either as a permanent resident or a temporary resident), and the activity that the foreign national intends to undertake while in Canada temporarily<sup>1</sup>.

Foreign nationals are allowed into Canada as temporary residents by privilege. An Immigration Officer will not issue a temporary resident visa unless he or she is satisfied that the applicant will leave Canada at the end of the period authorized for their stay. Foreign nationals must satisfy both the Officer abroad and at the Port of Entry, that they have the ability and willingness to leave Canada at the end of the temporary period authorized, regardless of whether they will be or have applied for permanent residence.

Under the current immigration policy, there are 46 countries<sup>2</sup>, whose citizens are given a visa-exempt status to enter Canada. So if the person is a citizen of the United States, the European Union or a handful of Caribbean countries, a simple plane ticket to Canada or a drive to the border is all that is required to put the person in front of a Port of Entry Immigration Officer who cursorily asks details of citizenship, destination in Canada, and the length of time required to be in Canada. No previous examination in their home country is required for such visa exempt citizens before they come to Canada.

Statistics reveal that over 80% of the forty-four million overnight visitors recorded per year, cite their origin as the United States and the majority of the remainder come from these visa-exempt countries<sup>3</sup>.

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<sup>1</sup> Immigration Manual OP11, Temporary Residents, s.5.1, 5.2

<sup>2</sup> The visa exempt countries include: Andorra, Antigua and Barbuda, Australia, Austria, Bahamas, Barbados, Belgium, Botswana, Brunei, Costa Rica, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel (National Passport holders only), Italy, Japan, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Namibia, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Republic of Korea, St. Kitts and Nevis, St. Lucia, St. Vincent, San Marino, Singapore, Solomon Islands, Spain, Swaziland, Sweden, Slovenia, Switzerland, United States, and Western Samoa.

<sup>3</sup> Statistics Canada, CANISM, Table 427-0001

So what about the rest of the world? What about the one hundred and forty or so other nations whose citizens want to come to Canada to take advantage of the Canadian Government's immigration policy objective which is to promote "...trade, commerce, tourism, international understanding and cultural, education and scientific activities."<sup>4</sup>

Herein lies the problem in Canada's immigration policy – the conflict between upholding the spirit of Act and maintaining procedural fairness. For all of the individuals who require formal applications to come to Canada as visitors, the Immigration Officer has to be satisfied that the applicant is entering for a temporary purpose and that the purpose is not in contravention of the Act or Regulations. In evaluating whether or not a prospective visitor has the intention of remaining in Canada illegally or seeking some other status in Canada, Officers are encouraged to take into consideration, amongst other things, the purpose of the trip, duration of the proposed visit, the immigration status in Canada by the members of the family, applicants' ties to their home country including family, their social/economic situation, a respect for visa regimes in the context of previous travel, reasonableness in proposed means of support in Canada, intention to work or study in Canada, truthfulness in reporting previous refusals or removals from Canada and previous convictions or other possible grounds for inadmissibility<sup>5</sup>.

Given the wide ambit of questioning allowed and the lack of standards for such questions, it is not difficult to discern how any potential tourist applicant can fail the test with simply one incorrect or even misunderstood answer. Sometimes, answers given with limited English or French skills, or mistranslated, can result in immediate refusals. Not only are intentions misunderstood, but also the Immigration staff do not have the time or inclination to devote more than a few moments to assess such applications.

Imagine the frustration of applicants who have sometimes travelled days and/or at great expense for a substantial distance (sometimes equivalent from St. John's, Newfoundland to Vancouver, British Columbia), only to be told in a matter of minutes that they are not bona fide visitors and the application refused with generic reasons<sup>6</sup>.

The Officers have also a broad discretion to give consideration to the general economic and political environment of the applicant's country.

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<sup>4</sup> Immigration and Refugee Protection Act S.C.2001, c.27 s.3(g)

<sup>5</sup> Immigration Manual OP11, Temporary Residents, s.9

<sup>6</sup> The form letter of refusal usually has the following paragraph:

*In reaching a decision, an Officer considers several factors, which may include:*

- *The applicant's travel and identity documents;*
- *The reason for travel to Canada and the applicant's contacts there;*
- *The applicant's financial means for the trip;*
- *The applicant's ties to their country of residence, including immigration status, employment and family ties;*
- *Whether the applicant would be likely to leave Canada at the end of their authorized stay.*

*In your case, I was not satisfied that you met the requirements of the Act and Regulations. I am therefore refusing your application. ...*

A high degree of skepticism exists amongst the Immigration Officers worldwide about the true motivations of potential visitors who come from countries where there has been a history of refugee claims, civil strife and/or economic hardship. The overriding impression of the Officer is that anyone applying has the intention of going to Canada on a permanent immigrant basis unless the Officer can be satisfied to the contrary. Sometimes this is an impossible task to achieve.

How can a potential visitor, despite all of his or her positive personal attributes ever hope to overcome, by sufficient evidence, the negative generalization of their countries' political or economic situation?

The very high standard applied to citizens who do not have visa-exempt status works against them in yet another fashion, vis-à-vis, Canada's immigration policy. If the potential visitors have a desire to apply for permanent residency in Canada, they will discover that that door is shut to them as well, as a result of not being able to first visit Canada to confirm employment.

Under the present regulations, any applicant seeking permanent residency under the skilled worker category, can succeed only by obtaining the 67 points required for successful immigration. For having a job offer of employment, a person can obtain up to an additional 15 points or an additional 5 points for studying in Canada for two years. The dilemma comes in the fact that only individuals who can usually come for job interviews and meet employers face-to-face, have any strong chance of obtaining employment. Arranged employment, necessarily demands an in-depth interview. However, if one cannot obtain a temporary resident visa to come to Canada, what chance will such an applicant have on a permanent resident application, if the extra points for employment cannot be obtained? Similarly, if a student wishes to improve his or her English and French, in Canada, while accruing points for the permanent resident application, the door may be closed, simply because of country conditions.

If Canada is to live up to its commitment of facilitating "international understanding", the first step may be to encourage its Immigration Officers to take more time and care in realistically assessing the bona fides and good intention of many worthy applicants, who can both in the short term and in the long term add to the well-cherished mosaic of the Canadian social fabric.

*S. David Aujla practises immigration law in Victoria, B.C. Canada*  
email: [daujla@victorialaw.com](mailto:daujla@victorialaw.com), website: [www.victorialaw.com](http://www.victorialaw.com)