



Express Entry: Can I apply without an LMIA?

Welcome to the Canadian Immigration Answers podcast. My name is Mark Holthe, I'm an immigration lawyer practicing with the law firm of Holthe Tilleman in the beautiful province of Alberta, Canada. This podcast is designed to answer the questions that we receive from our listeners. These questions can be left, and if you would like to leave a question for us you can do so directly on our website. We have an "Ask an immigration question" link that you can click on to leave a voice message on the right sidebar of our website, or alternatively there's also a place where you can fill in a form on our site to ask that question.

Today's question actually comes from a reader that is following us on Facebook, and left a comment to one of the blog posts that I had previously written on express entry. The question reads as such, "Hello, I've been following your post and I find it really helpful. Thanks for the answers to our questions, and for what is happening right now with regards to temporary foreign workers. I only have one question. In my case, it may be the same situation as stated above except that my work permit will expire on June 2015.

So technically I have six months still when the express entry will open, January of 2015. Is there any chance that I can apply without the LMIA because I don't think the company that I'm with right now will apply for an LMIA for me? I am a retail store supervisor and have almost three years managerial experience back home, and I've graduated from a four year course. I will appreciate if you enlighten me with the possibilities that I may have when this new program kicks off. Thanks."

Well thank you very much listener for this question. It's a question that we've received numerous times over the last few weeks, and as we are nearing the launch of express entry. The question just to summarize relates to whether or not a person can apply through express entry without an LMIA supporting their work permit. The short answer is yes you can if you are applying through the Canada Experience Class, or alternatively some individuals will have nominations from their Provincial Nominee Program. That can be used in lieu of an LMIA.

However in this circumstance this individual is likely on a permit that is either through a post grad work permit process, where the individual is on open work permit, or they are currently working on an LMIA based permit. But because of the overhaul of the foreign worker program, the business that they are working for which is usually a first food restaurant or some other retail store is capped out at the percentage of foreign workers that they can have. And the government has set that at 10%. Now some companies will be grand fathered in, but the reality is this person is probably working in a company where there are more than 10% foreign workers, and therefore the company will be unable to get a new LMIA to support his work permit extension.



With time running out, many individuals in this situation are wondering if it's possible for them to submit a profile through express entry, and possibly be drawn and given an invitation to apply for permanent residence, and obtain an open work permit through the bridging work permit process all in time to extend their permit before they cap out and essentially have to leave Canada. So in the case of this individual who has some prior years of managerial experience, for sure good English because the comment that was left was very well written, and a four year program back home, they should score fairly high with their human capital points.

The government has repeatedly told us that initially they do not believe everyone that will be drawn from the first pool, or the first selection at the end of January of 2015. They don't feel that there will be enough individuals with LMIA based work permits to comprise the entire draw. So in this case I would highly recommend that this reader and follower take every step they can to submit their profile as soon as possible come January 1st when express entry is launched. By doing so, they will be in a position to potentially be drawn through the first selection process. And if there are insufficient numbers of LMIA based candidates, in other words candidates that have work permit supported by an LMIA, then there is a possibility that this individual could be drawn in one of those first few selection processes.

So I would also encourage everyone to go back and read my blog on the things that you need to do now to give yourself the best chance of being selected. And I won't belabor that blog too much, but the key here with everyone in the same situation as this listener is that unless you have your educational credentials assessed, or you have taken the time to get your language examinations done through the IELTS or CELPIP examination centers, you are going to be hard pressed, because everyone is trying to get those dates now. And that was one of the main reasons why I did the blog probably about three or four weeks back is because people needed to start then before everyone started rushing to get these third party supporting documents in place.

So hopefully that answered this question for today. And if you have a question yourself that you would like to ask, please go to our website and leave a comment for us through our text or our voice messaging system. Alternatively go to our Facebook page and leave a comment on one of the blogs there. I always try to review those and even answer if I can. However, I hope everyone can appreciate that it's impossible to answer everyone no matter how much I would like to. So the source of these podcasts, all your questions and when I get sufficient numbers that are similar, I go out of my way to try and answer them as best I can here in this podcast. So that concludes our Canadian Immigration Answers podcast for this day, and we will talk to you again soon.