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Meeting the Residency Requirement in Applications for Canadian Citizenship

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To be granted Canadian citizenship, the law requires a permanent resident to have been physically present in Canada for at least three of the past five years

(1095 days) immediately before the date of the application. Most courts have

called for a flexible approach to this requirement, allowing for longer physical absences from Canada so long as an applicant can prove that he or she

“regularly, normally or customarily lives” or has a “centralized mode of existence” in Canada. While it has permitted sensitivity to the circumstances of individual permanent residents, the flexible approach has led to confusion and inconsistency, making it difficult to predict the outcome of a citizenship application where the residency requirement is not met.

One thing that is clear is that an application based on factors other than physical presence in Canada will be **carefully scrutinized**. Our firm has seen an increasing number of cases where an applicant was granted citizenship by a judge based on “centralized mode of existence”, and the judge’s decision was immediately appealed by Immigration, Refugees and Citizenship Canada (IRCC). Now more than ever, applicants must make a clear and convincing case that Canada is truly their home base.

When calculating your time in Canada:

- only the five (5) years immediately before the date of your application are taken into account;
- each day you were physically present in Canada as an authorized temporary resident or protected person before you became a permanent resident counts as half a day (up to a maximum of 365 days);
- each day you were physically present in Canada after you became a permanent resident counts as one day;
- time spent serving a sentence for an offence in Canada (e.g. serving a term of imprisonment, probation and/or parole) cannot be counted towards your physical presence - there are some exceptions.



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Foreign Police Certificates

During the 4 years immediately before the date of your application, if you spent 183 days or more in a row (since the age of 18) in a country (other than Canada), you must provide a police certificate from each country. If you were in your country of origin immediately prior to becoming a permanent resident and landing in Canada and this time falls within this four year period, you are NOT required to provide a police certificate.

An application for citizenship that is not based on three years of permanent residence in Canada is never a guarantee. However, applicants can vastly increase their chances of a positive outcome by filing extensive evidence of ties to Canada. This could include evidence of property, assets, bank accounts, payment of taxes, memberships in clubs or associations, family members in Canada, frequent travel back to Canada, weak ties to other countries, or evidence that employment or education abroad is temporary. No one of these things is either essential or determinative, however, the more evidence of concrete ties to Canada and intention to maintain those ties, the stronger the likelihood of success.

Our Immigration Law Group specializes in this sometimes complicated area of law. We can help ensure that submissions on “centralized mode of existence” are as complete and persuasive as possible.

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the refusal decision should be overturned. The sponsor may present updated evidence to show the genuineness of the relationship.

If your appeal before the Immigration and Refugee Board is unsuccessful, it may be possible to seek judicial review before Canada's Federal Court.

The appeal process is long and arduous. It is currently taking up to two years to receive a date to appear before a decision-maker. This prolonged period of separation and uncertainty can be incredibly difficult for couples.

How an Experienced Immigration Lawyer Can Help

The spousal sponsorship process can be long, complicated and stressful. Our team of experienced immigration professionals will assist you every step of the way. We will help you to avoid the significant delays that can be caused by omitted documents or improperly filled forms. We will also help to make your application as persuasive as possible. In other words, we can help to maximize the chances of success. This has the potential to save you significant time, money, strain and separation in the long-run.

If your application is refused, our team can help you determine whether it is worthwhile to pursue an appeal. If you do choose to file a spousal sponsorship appeal, we will help you navigate the process, put together strong supporting evidence, prepare you to testify, and advocate for your rights before the Immigration and Refugee Board and/or the Federal Court.

We would be happy to speak to you about your spousal sponsorship matter. Please contact us to set up a consultation appointment.

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