



**CORPORATE IMMIGRATION  
LAW FIRM**

## Dismissed Foreign Workers – A Few Key Points

During this period of economic uncertainty, employers are being forced to make difficult business decisions such as dismissing employees, including Foreign Workers. Below are a few key points to keep in mind when dismissing a Foreign Worker. We also recommend that an employment law lawyer be consulted with respect to the potential liabilities or obligations of an employer when dismissing a Foreign Worker.

### When does a Dismissed Foreign Worker have to leave Canada?

After being terminated or laid off, Foreign Workers and their family members may continue to reside in Canada until the Foreign Worker's work permit expires. Foreign Workers who hold employer-specific work permits may not work for a new employer until they secure a new work permit. However, it should be noted that their accompanying spouses may continue to work on the basis of their 'open' spousal work permits and their children may continue to attend school until their status in Canada expires. Should a Foreign Worker leave Canada, they are subject to examination on re-entry and could be refused admission on the basis that there has been a material change in the Foreign Worker's circumstances.

### No Health Insurance Coverage

A Foreign Worker who loses their job may not be eligible for continued provincial health insurance. In Ontario, we have been advised that Foreign Workers who are no longer employed may not continue to benefit under the Ontario Health Insurance Plan (OHIP). While our understanding is that this matter is currently under review in Ontario, dismissed Foreign Workers should be made aware that they must have adequate medical coverage should they or their family members require medical attention during their period of unemployment. We recommend that other provincial authorities be contacted for greater certainty. Ensuring alternative medical coverage is particularly important for Foreign Workers with existing medical conditions and/or for those who are or have a spouse who is pregnant.

### Limited Access to Employment Insurance (EI)

Employment Insurance (EI) provides temporary income support during periods of unemployment. Temporary Foreign Workers must meet the same eligibility requirements as Canadian citizens and permanent residents. Regular benefits are provided to individuals who lose their jobs through no fault of their own (for example, due to shortage of work, or seasonal or mass lay-offs) and are available for and capable of working, but can't find a job.

Although Foreign Workers pay EI premiums while they are employed in Canada, laid off Foreign Workers are often found ineligible for EI as a result of not meeting the minimum hours worked threshold (most people will need between 420 and 700 insurable hours of work in their qualifying period to qualify). They may also be found ineligible for EI if their work permit was employer-specific, as they will be unable to demonstrate that they are available for work in Canada without a valid work permit.

### Effect on Application for Permanent Residence in Progress

Whether a dismissal would affect an Application for Permanent Residence by a Foreign Worker that is in progress depends on the individual Foreign Worker's circumstances and the category under which they have applied. If an application has been made under the Canadian Experience Class, a dismissal would likely have a lesser impact than an application made under the Federal Skilled Worker Class where the outcome may be negatively affected by a loss of arranged employment. A Foreign Worker's particular situation should be reviewed by immigration counsel to determine the potential impact of the dismissal.

*The foregoing information is general in nature. For more specific inquiries, we recommend that Employers and Foreign Workers make appropriate inquiries with relevant government agencies directly, and/or with employment law and immigration law counsel.*



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