

advertisements for the job. Mileage reimbursements are likely part of the overall compensation related to the job. An employer who reimburses a TFW for mileage without having included that in advertisements recruiting Canadians and PRs for the job may be in violation of the advertising/recruitment requirements.

National Commodity List

The precisions on crop/livestock included or not included under the NCL are now available under the Annex B of the Primary Agriculture Directive.

Caregiver

Fees and Refunds

Program Integrity

Language Requirements

No Specific Language Required on LMIA

When an LMIA states that ‘the offer of employment does not require the ability to communicate in any specific language’ but the officer determines that it is unreasonable to accept that no language is required in order to safely and effectively perform the job on the LMIA what actions should they take?

Section 200(5) of the Immigration and Refugee Protection Regulations (IRPR) provides the authority to assess the genuineness of an employer’s job offer and outlines the factors that are used in making this determination. Whether the offer is consistent with the reasonable employment needs of the employer is one of the assessment factors when determining whether an offer of employment is genuine (section 200(5)(b)). Reasonable employment needs are those needs which could easily be seen as taking place within the context of the goods and services that the employer’s business provides and should make “basic business sense.”

Under Section 200(5)(b), there may be a limited number of instances where “no language requirement” could pass the reasonable employment needs test. For example, some jobs require low levels of skill and minimal language proficiency or communication (e.g. listening, speaking, reading, and writing).

Conversely, some jobs may not pass the reasonable employment needs test if they clearly require knowledge of English or French.

When the assessing officer, in discussions with the employer, determines that the selection of 'no language required' is unreasonable for the position requested on the LMIA, the employer should choose a language (French or English or another language if the employer can clearly demonstrate that the use of the non-official language is a bona fide occupational requirement for performing the duties associated with the job as per IRPR, Section 203(1)(1.01)(a)).

If the employer disagrees with the decision that a language is required and refuses to agree to the change on the LMIA the file can be refused under Genuineness – reasonable employment needs.

Recruitment and Advertising

Triage

Third Parties

IRPA Section 91 – Issuing a Negative Decision

Can Section 91(1) be used as grounds to issue a negative LMIA?

Effective 2016-09-01

Section 91 of IRPA is not an LMIA assessment factor, and is therefore not an authority that can be used to issue a negative LMIA.