

Subject RE: Application Policy : Express Entry Work Experience for Business Owner 25% -- REP-2022-281  
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Good Day,

Thank you for your email correspondence to Immigration, Refugees and Citizenship Canada's Immigration Representatives mailbox. We appreciate your patience.

**Question:** I have a client who is currently working on a PGWP and is eligible to apply for CEC after achieving 12 months employment under [redacted] - Restaurant and Food Service Manager. He doesn't qualify for FSW due to taking a month off before completing one (1) full year of continuous employment. The client has formed a corporation with two other foreign nationals to open a fast food restaurant starting in March 2023. The client has **25% ownership**, will be on a payroll and will work at least 30 hours+ per week. He plans to continue working under [redacted] as the Restaurant Manager. After one (1) full-time year continuous work experience under [redacted] at the restaurant, can the extra year work experience be added to his current *CEC Express Entry* CRS points or will it be considered "self-employed" and therefore not be allowed.

**Answer:** Any period of self-employment shall not be included in calculating the period of qualifying work experience under the CEC, as per R87.1(3)(b) of the Immigration and Refugee Protection Regulations. As such, the CEC requires that applicants demonstrate they acquired skilled work experience in Canada through authorized employment by a third party. Partial ownership of a company would be considered self-employment. Factors considered when assessing an applicant's self-employment status can be found on our website.

Note that work experience under CEC need not be continuous. If the applicant gained one year of skilled work experience in Canada, in the last 3 years before applying (and before becoming self-employed), the applicant could count it towards the work experience requirement for CEC.

**Question:** After one (1) full-time year continuous work experience under [redacted] at the restaurant, can the applicant apply for *FSW Express Entry* and count these 1560 hours as Canadian work experience?

**Answer:** Minimum requirements for FSW can be found on our website. The applicant must have accumulated at least 1 year of continuous full-time (or the equivalent in part-time) paid work experience in the occupation identified in their application for permanent residence as their primary occupation. In calculating this period of work experience, the occupation must be listed in TEER 0 (Managerial occupations), TEER 1 (Professional occupations) or TEER 2 and TEER 3 (Technical occupations and skilled trades) of the NOC 2021 [R75(2)(a)].

The applicant's skilled work experience must also have occurred within the 10 years preceding the date of their application for permanent residence

In addition, during that period of employment, the applicant must have done both of the following:

- performed the actions described in the lead statement for the occupation as set out in the occupational description of the NOC [R75(2)(b)]
- performed a substantial number of the main duties, including all of the essential duties, of the occupation as set out in the occupational description of the NOC [R75(2)(c)].

**Question:** After one (1) full-time year continuous work experience under \_\_\_\_\_ at the restaurant, can the applicant apply for *FSW Express Entry* and make an offer of "arranged employment" to themselves to gain an extra 200 points?

**Answer:** To be assigned points for arranged employment pursuant to subsection 29 of the Ministerial Instructions respecting the Express Entry system, the foreign national must be in an employer-employee relationship, and the offer itself must be made by the employer to an employee, and must meet all other requirements outlined in the Ministerial Instructions. An applicant cannot make an offer of arranged employment to themselves.

**Question:** If the foreign national owned 50%+ of the company, are they automatically considered to be "self-employed" and if they own less than 50% will the work experience be considered as Canadian Work Experience to add to either CEC or FSW Express Entry pathways?

**Answer:** Factors considered when assessing an applicant's self-employment status can be found on our website. Indicators that can be used when determining whether an individual is an employee or self-employed, are available in the Employee or Self-employed? CRA guide.

Please be advised that the assessment of an application is based on a case-by-case basis, considering the particular circumstances in conjunction with the supporting documentation available to the officer. The onus is always on the applicant to provide sufficient documentation to satisfy an officer that they meet the requirements.

We trust that this information will assist you.

Sincerely,

Immigration Representatives Mailbox

**From**

**Sent:** December 3, 2022 1:33 PM

**To:** immigration.representatives@cic.gc.ca

**Cc:** Immigration Representatives / Représentants immigration (IRCC) <IRCC.ImmigrationRepresentatives-Representantsimmigration.IRCC@cic.gc.ca>

**Subject:** Application Policy : Express Entry Work Experience for Business Owner 25%

Good afternoon,

I have a client who is currently working on a PGWP and is eligible to apply for CEC after achieving 12 months employment under \_\_\_\_\_ Restaurant and Food Service Manager. He doesn't qualify for FSW due to taking a month off before completing one (1) full year of continuous employment.

The client has formed a corporation with two other foreign nationals to open a fast food restaurant starting in March 2023. The client has **25% ownership**, will be on a payroll and will work at least 30 hours+ per week. He plans to continue working under \_\_\_\_\_ as the Restaurant Manager.

**Question 1:** After one (1) full-time year continuous work experience under [redacted] at the restaurant, can the extra year work experience be added to his current *CEC Express Entry* CRS points or will it be considered "self-employed" and therefore not be allowed.

**Question 2:** After one (1) full-time year continuous work experience under [redacted] at the restaurant, can the applicant apply for *FSW Express Entry* and count these 1560 hours as Canadian work experience?

**Question 3:** After one (1) full-time year continuous work experience under [redacted] at the restaurant, can the applicant apply for *FSW Express Entry* and make an offer of "arranged employment" to themselves to gain an extra 200 points?

**Question 4:** If the foreign national owned 50%+ of the company, are they automatically considered to be "self-employed" and if they own less than 50% will the work experience be considered as Canadian Work Experience to add to either *CEC* or *FSW Express Entry* pathways?

Thank you so much for your time and consideration.

Kind regards,

