

How soon can I leave the employer after I get my GC

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Submitted by Rajiv S. Khanna on Aug 11th 2008

Q. How soon can I leave my petitioning employer once I get my green card approval?

A. There is no brief answer to this question. Let me explain. The basic premise (or theory) behind permanent residence through offer of employment is that an employee is accepting a job on a "permanent" bases. What does "permanent" mean? Does it mean for ever. Obviously not. That would be unreasonable. But "permanent" also does not mean that you pack your bags the moment you receive your green card. So what is the answer? No one really knows. Each case has to be determined upon its own merits. Normally, I would say working for one year or more with the same employer after getting your GC is PROBABLY enough indication of permanency. Less than 4-5 months is perhaps evidence to the contrary

But REMEMBER, this is just my own guess. Technically speaking, the moment you decide that you will leave after a certain period of time, "permanent" intent is gone. Catch-22 eh? Well that is the way it is.

There may be considerable relaxation in this interpretation because in the year 2001 Congress enacted a law that permits employees to leave an employer even while their I-485 is pending. We do not have the regulations or any detailed guidance on these issues.

FREQUENTLY ASKED QUESTIONS

Q. I did not willingly left the GC sponsor employer but actually after three months I got my GC, i got laid off from the project and due to the bad economy , my employer was not able to get me other project so he gave me letter saying that he wont be able to pay me salary since he doesnt have any project for me.And, after getting that letter I resigned from GC sponsor employer.

This is the whole scenario, now considering it, Am I still at risk?

A. There are no clear rules as we have stated above. But, In my opinion, there is no risk in this scenario. You acted in good faith to continue the job, but your employer could not

continue to employ you.

Q. I am employed at the XYZ University (XYZU). I applied for 485 myself (without attorney). My 485 was approved last month and I got my passport stamped in July. My contract with XYZU is coming to an end. My job is renewed every year based on the availability of funding. I have been with XYZU for the last 5 years. There is a possibility that they (XYZU) may not extend the contract because the research grant I got is coming to an end in september. Will my termination from the job at XYZU affect my Green Card in the future, and is it better to be terminated from service (based on unavailability of funding) by the WVU or is it better to offer my resignation?

A. I think it is better to be terminated. There are no clear rules as we have stated above. But, In my opinion, there is no risk in this scenario. You acted in good faith to continue the job, but your employer could not continue to employ you.

Green Card:

Form I-485 ^[2]

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