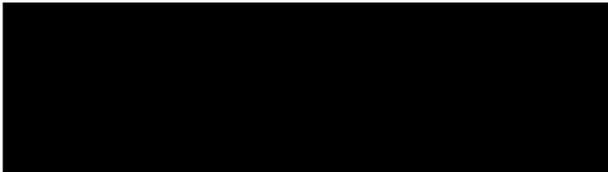




U.S. Citizenship  
and Immigration  
Services



D7

DATE:

DEC 11 2012

Office: VERMONT SERVICE CENTER

FILE:



IN RE:

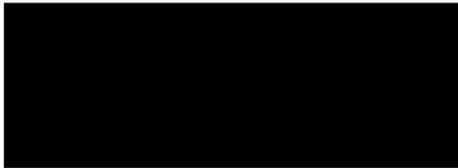
Petitioner:



Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will sustain the appeal.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as a nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a [REDACTED] established in 2007, engages in international trade of textiles and clothes, and research and development of new fabric. It is a subsidiary of [REDACTED], located in [REDACTED]. The petitioner seeks to employ the beneficiary as its President for a period of three years.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. The evidentiary requirements for this classification are set forth at 8 C.F.R. § 214.2(i)(3).

The director denied the petition on the sole ground that “[t]he record did not establish that the U.S. entity had a valid lease at the time of filing, April 15, 2011, for the L-1A classification.”

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. On appeal, counsel for the petitioner asserts that the director erred in concluding that the beneficiary did not have a valid lease at the time of filing. Counsel explains that even though the petitioner did not have a newly signed lease, it was a valid, month-to-month tenant at the same premises. Counsel refers to the petitioner's previously submitted letter from its landlord, dated August 26, 2011, in which the landlord confirmed that the petitioner “is our current tenant in our building” and is a “month-to-month tenant” since the expiration of the lease on June 31, 2010. Counsel refers to the previously submitted lease between the petitioner (“the tenant”) and [REDACTED], valid from July 1, 2009 to June 31, 2010. Counsel also refers to the petitioner's previously submitted bank statements confirming its rent payments to [REDACTED] on December 1, 2010, October 30, 2010, October 4, 2010, September 2, 2010, August 9, 2010, and July 6, 2010, as additional proof of its valid occupancy at [REDACTED] beyond the lease's stated expiration date. Counsel further explains that the petitioner was a month-to-month tenant at the time of filing by request of the landlord, as at that time the landlord had asked the petitioner to relocate to another floor to accommodate another potential tenant. Finally, counsel provides evidence that the petitioner has signed a new lease with [REDACTED] for the same premises, valid until November 30, 2012.

Upon review, counsel's assertions are persuasive. The AAO finds sufficient evidence to establish that the petitioner is, and has been, occupying sufficient physical premises located at the [REDACTED] to operate its business. Counsel for the petitioner submitted credible evidence establishing that the petitioner

was legitimately occupying the said premises beyond the expiration of the lease on June 31, 2010, including the letter from the landlord dated August 26, 2011 confirming the petitioner as a month-to-month tenant, and evidence of rent payments beyond the lease's expiration. On appeal, counsel also submits a credible explanation for the petitioner's month-to-month tenancy, as well as additional evidence that the petitioner has renewed its lease.

While the AAO acknowledges the director's concern that the August 26, 2011 letter was not signed by the petitioner and contained no details concerning the lease agreement, the submitted documents, when considered as a whole, are relevant, probative, and credible. The director has not articulated any specific, material doubts as to the credibility of the documents.<sup>1</sup>

In visa petition proceedings, the petitioner bears the burden of proving eligibility for the benefit. Section 291 of the Act, 8 U.S.C. § 1361; *see also Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (the petitioner must prove eligibility by a preponderance of evidence). Here, the petitioner has sustained that burden, and has overcome the director's sole ground for denial. Accordingly, the director's decision dated October 26, 2011 is withdrawn.

**ORDER:** The appeal is sustained.

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<sup>1</sup> The director has not explained why a letter from the landlord verifying the petitioner's tenancy would require the petitioner's signature.