

Federal Court



Cour fédérale

Date: 20250528

Docket: T-2826-24

Citation: 2025 FC 966

Ottawa, Ontario, May 28, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

SABER KAZEMI

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Saber Kazemi seeks judicial review of a decision by the Canada Revenue Agency [CRA] finding him to be ineligible for the Canada Recovery Benefit [CRB] and the Canada Worker Lockdown Benefit [CWLB].

[2] For the reasons that follow, the CRA's decision was procedurally fair and reasonable. The application for judicial review is dismissed.

II. Background

[3] The CRB and CWLB were among the benefits provided by the Government of Canada to alleviate the adverse economic effects of the COVID-19 pandemic. Mr. Kazemi applied for and received the CRB for the periods between November 22, 2020 and October 23, 2021. He also applied for and received the CWLB for the periods between December 19, 2021 and February 5, 2022.

[4] On January 22, 2022, Mr. Kazemi spoke with a CRA officer concerning his application for the CWLB. The CRA officer asked him to submit proof of his income. On January 26, 2022 Mr. Kazemi provided bank statements for November 11 to December 10, 2021 and March 12 to April 9, 2021.

[5] The CRA made numerous attempts to reach Mr. Kazemi by telephone, but without success. Having tried and failed to contact him over a period of 45 days, a CRA officer determined that he was ineligible for both the CRB and CWLB.

[6] By letters dated May 27, 2022, the CRA informed Mr. Kazemi that he was not eligible for the CRB and CWLB because he did not earn at least \$5,000 of employment or net self-employment income in 2019, 2020, or in the 12 months before the date of his first application.

[7] On January 2, 2024, Mr. Kazemi informed the CRA that he had submitted a Notice of Assessment as proof of his income. He was told that the CRA already had access to his tax return. The CRA officer's case notes indicate that Mr. Kazemi was also given an explanation of the acceptable forms of proof to establish his income from self-employment.

[8] On January 7, 2024, Mr. Kazemi submitted the following documents to the CRA:

- (a) a letter explaining his income from self-employment and requesting a second review;
- (b) Notices of Assessment for the 2020 and 2021 taxation years;
- (c) four invoices issued to P2P Express Logistics Inc dated March 15, 2020, July 31, 2020, May 15, 2020, and February 29, 2020, each for \$5,000; and
- (d) bank statements for periods ending on June 11, 2020, April 9, 2020, and September 11, 2020.

[9] On January 8, 2024, Mr. Kazemi submitted a further letter with Notices of Assessment for the 2019 and 2020 taxation years.

[10] The CRA assigned Nicole Gervais [Second Reviewer] to conduct the review. On September 17, 2024, the Second Reviewer telephoned Mr. Kazemi and asked him several questions about his work before, during, and after the pandemic.

[11] The Second Reviewer's case notes indicate that she requested documents to support Mr. Kazemi's eligibility for the CRB and CWLB. While the record is not entirely clear, it appears that these included bank statements from December 2019 to March 2022, proof of expenses for the same date range, and Mr. Kazemi's net self employment income. Mr. Kazemi said he did not have any expenses, and his net income was the same as his gross income.

[12] The Second Reviewer's case notes state the following (Mr. Kazemi is referred to as BR, *i.e.*, benefits recipient):

BR requested for second review, BR believes there was a misunderstanding concerning his ineligibility due to incomplete information he provided previously. BR wanted to provide further clarification regarding his eligibility.

Contacted BR for supporting documents, BR explained he did not have any expenses and his net was the same as his gross amount of income.

He did not have the documents requested.

12 month prior Expenses Dec 2019 □ Dec 2020, Dec 2020 □
March 2022

Net self employment amount

BR is responsible for all expenses to be summarized

Bank statements, - Dec 2019 □ Dec 2020, Dec 2020 □ March 2022

How does BR pay himself?

Documents on file are not sufficient for this review.

[...]

DECISION:

CRB: period 5 to 28 CWLB: period 9-15 ineligible for not meeting 5k income criteria in 2019 or in the 12 months prior to the application

During conversation with BR (dated 2024-09-17) BR stated that he did not have the documents to support the amounts reported on T1 returns to support they meet the income criteria. And was not able to provide them. As this is a document driven review information provided does not support the BR meets the income criteria.

[13] By letter dated September 23, 2024, the CRA informed Mr. Kazemi that he was not eligible for the CRB and CWLB because he did not earn at least \$5,000 of employment or net self-employment income in 2019, 2020, or in the 12 months before the date of his first application.

III. Issues

[14] This application for judicial review raises the following issues:

- A. Was the Second Reviewer's decision procedurally fair?
- B. Was the Second Reviewer's decision reasonable?

IV. Analysis

[15] The Second Reviewer's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65

[*Vavilov*] at para 10). The Court will intervene only where “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).

[16] The criteria of “justification, intelligibility and transparency” are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[17] Procedural fairness is subject to a reviewing exercise best reflected in the correctness standard, although strictly speaking no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). The ultimate question is whether an applicant had a full and fair chance to be heard (*Siffort v Canada (Citizenship and Immigration)*, 2020 FC 351 at para 18).

A. *Was the Second Reviewer’s decision procedurally fair?*

[18] Mr. Kazemi says he was not told what kinds of documents he had to provide in order to establish his eligibility for the CRB and CWLB. This assertion is contradicted by the case notes and the Second Reviewer’s affidavit.

[19] Mr. Kazemi was asked to submit proof of his income on December 1, 2023. A case note dated January 2, 2024 indicates that Mr. Kazemi was “advised of the types of documents they

need to submit for proof of income as self employment income”. On June 3, 2024 he again spoke with a CRA officer concerning supporting documents as proof of income. During his telephone call with the Second Reviewer, Mr. Kazemi was asked to provide documents to support his eligibility. According to the Second Reviewer’s affidavit and case notes, Mr. Kazemi said he did not have documents to support the amounts on his T1 returns. The record demonstrates that Mr. Kazemi was repeatedly instructed to provide proof of income, and informed of the documents he should submit.

[20] Furthermore, there is no requirement for a decision maker to provide a “running score” of an application (see *Bekkai v Canada (Attorney General)*, 2024 FC 981 at para 22, and cases cited therein). While a decision maker may have an obligation to apprise an applicant of concerns relating to the credibility, accuracy, or genuineness of information provided (*Komleva v Canada (Attorney General)*, 2024 FC 1562), the Second Reviewer’s concerns related only to the sufficiency of the information provided. The Second Reviewer’s notes from her telephone call with Mr. Kazemi indicated that he was unable to provide supporting documents to prove his eligibility.

[21] The Second Reviewer’s decision was procedurally fair.

B. *Was the Second Reviewer’s decision reasonable?*

[22] The CRA’s guidelines for confirming eligibility for COVID-19 benefits list the following “acceptable proofs” for self-employment income:

- Detailed invoices for services rendered (must include the date of the service, description of service, who the service was for, and the applicant's or company's name);
- Documentation for receipt of payment for the service provided (e.g., statements of accounts, bank statements or bill of sale showing a payment and the remaining balance owed);
- Documentation showing income is earned from carrying on a "trade or business" as a sole proprietor, an independent contractor, or some form of partnership;
- Contracts;
- Books and records;
- A list of expenses to support the net result of earnings;
- Any other documentation that will substantiate \$5,000.00 in self-employment income.

[23] Mr. Kazemi submitted four invoices addressed to P2P Express Logistics Inc for "logistic services", each in the amount of \$5,000. Mr. Kazemi's bank statements indicated four Interac e-transfers, each in the amount of \$5,000, but did not confirm their origin. The transfers were made within 15 days of the dates of each invoice.

[24] Mr. Kazemi did not provide any contracts for services. The invoices did not include the date of the service, a description of the service, or whom the service was for. Mr. Kazemi did not provide documentation showing that his income was earned from carrying on a "trade or business" as a sole proprietor, an independent contractor, or some form of partnership. He provided no books or records, list of expenses, or any other documentation to substantiate at least \$5,000 in self-employment income.

[25] In oral submissions, Mr. Kazemi explained that he is a truck driver and P2P Express Logistics Inc is his own company. He said he had no expenses because these were all borne by the company. He offered to provide the Court with a document confirming that P2P Express Logistics Inc had paid the invoices he submitted. However, this document was not accepted as it was not provided to the Second Reviewer.

[26] The Second Reviewer reasonably concluded that the documents on file were not sufficient to establish Mr. Kazemi's eligibility for the CRB and CWLB. Mr. Kazemi informed the Second Reviewer that "he did not have the documents to support the amounts reported on T1 returns to support they meet the income criteria [a]nd was not able to provide them". As the Second Reviewer observed in her notes, this was a document-driven review and the information provided Mr. Kazemi did not demonstrate that he met the income criteria.

V. Conclusion

[27] The application for judicial review is dismissed.

[28] The Respondent requests costs in the amount of \$500. Consistent with this Court's decisions in *Peiris v Canada (Attorney General)*, 2024 FC 331 and *Lussier v Canada (Attorney General)*, 2022 FC 935, costs are awarded to the Respondent in the all-inclusive amount of \$500.

JUDGMENT

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. Costs are awarded to the Respondent in the all-inclusive amount of \$500.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2826-24

STYLE OF CAUSE: SABER KAZEMI v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 20, 2025

JUDGMENT AND REASONS: FOTHERGILL J.

DATED: MAY 28, 2025

APPEARANCES:

Saber Kazemi
(on his own behalf)

FOR THE APPLICANT

Deanna Frappier

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Halifax, Nova Scotia

FOR THE RESPONDENT