Federal Court Cour fédérale

Date: 20250911

Docket: T-2961-24

Citation: 2025 FC 1513

Toronto, Ontario, September 11, 2025

PRESENT: Mr. Justice Brouwer

BETWEEN:

EDWARD RYCKMAN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Edward Ryckman seeks judicial review of a decision of the Canada Revenue Agency [CRA] finding him ineligible for the Canada Emergency Relief Benefit [CERB] on the basis that he did not "cease to work for reasons related to COVID-19". For the reasons set out below I find that the decision of the CRA weas unreasonable and must be set aside.

I. BACKGROUND

[2] Mr. Ryckman is a unionized employee who has been working for the same employer since 1990. He stopped working after December 23, 2019, due to a medical condition, and was advised not to return to work until his condition had been treated. Access to required treatment, however, was impeded by the COVID-19 pandemic. Mr. Ryckman was therefore unable to begin treatment until September 2020. He received unemployment insurance benefits for three months and then received CERB payments from March 15, 2020, until September 26, 2020.

[3] On February 22, 2022, the CRA informed Mr. Ryckman that, based on its records, he was not actually eligible for the CERB payments he had received in 2020. He sought a "Second Review" of this finding, but on September 14, 2023, the CRA confirmed their finding that Mr. Ryckman was ineligible because he had stopped working at the end of 2019 for a reason other than COVID-19.

[4] Mr. Ryckman sought judicial review of the Second Review decision. The Respondent agreed that the decision was unreasonable and on June 17, 2024, Justice Elizabeth Heneghan set it aside and ordered the CRA to redetermine, as set out in her Judgment in T-2130-23 *Ryckman v Canada (Attorney General).*

[5] On July 11, 2024, the Officer assigned to redetermine Mr. Ryckman's Second Review (i.e. to conduct a "Further Second Review") contacted Mr. Ryckman by telephone. As Mr. Ryckman did not want to answer questions by telephone the Officer gave him a deadline of

August 8, 2024, to submit any information he wanted considered. On July 29, 2024, Mr. Ryckman submitted to CRA copies of correspondence along with the complete Application Record from his judicial review (T-2130-23), which included a detailed affidavit, supporting evidence, and a memorandum of argument explaining, among other things, his position that he had in fact "ceased to work for reasons related to COVID-19" in the relevant time periods.

[6] The Officer spoke with Mr. Ryckman by telephone again on September 5, 2024, to ask if he had a timeframe for return to work, but Mr. Ryckman referred the Officer to the affidavit he had already provided, which he said included all the information needed.

[7] By decision dated September 19, 2024, the CRA again determined that Mr. Ryckman was ineligible for the CERB because he did not stop working or have his hours reduced for reasons related to COVID-19.

II. ISSUES

[8] Mr. Ryckman challenges the reasonableness of the Further Second Review decision.

[9] Reasonableness review requires to Court to determine whether an impugned decision is based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law bearing upon it (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]). Administrative decision makers need not respond to every argument or line of possible analysis, but the failure to meaningfully grapple with key issues or

central arguments may call into question whether the decision-maker was actually alert and sensitive to the matter before it (*Vavilov* at para 128).

III. ANALYSIS

A. *Preliminary issues*

[10] The Respondent notes that Mr. Ryckman has named the incorrect party as the Respondent in this matter. I agree. Pursuant to Rule 303 of the *Federal Courts Rules*, SOR/98-106 [the Rules], the Attorney General of Canada should be named as the Respondent. The style of cause will therefore be amended.

[11] The Respondent also challenges the admissibility of five exhibits included in Mr. Ryckman's application record that were not before the Officer: a medical direction (Exhibit C), the judgement of this court in Mr. Ryckman's previous judicial review (Exhibit P), the Notice of Application for Judicial Review in the present matter (Exhibit T), a 2019 CRA notice of assessment (Exhibit U), and a copy of the 2021 CERB Remission Order (Exhibit V).

[12] While I seriously question the validity of the Respondent's objections to exhibits P, T and V, nothing turns on these documents so I need not make a finding on the objections.

B. *Reasonableness of the decision*

[13] Mr. Ryckman argues that the decision of the officer conducting the Further Second Review does not reflect the central arguments and evidence he submitted, and that this is a reviewable error. I agree.

[14] The Respondent filed and relied on for argument an affidavit from the Officer who rendered the decision under review. In that affidavit, at paragraph 37, the Officer set out a list of documents that she considered when conducting her Further Second Review, and she appended these documents as exhibits to her affidavit. In addition to Notepad entries and income and deduction records derived from the CRA's computer system, the Officer listed the submissions and evidence received from Mr. Ryckman between November 8, 2020, and April 22, 2022. In oral argument counsel for the Respondent asserted that this must be taken as a complete list of the documents that the Officer considered.

[15] The Application Record submitted to the CRA on July 29, 2024, is not included in the list of documents and information considered by the Officer. Although it is appended to the Officer's affidavit as an exhibit to a later paragraph, indicating that it was received by the Officer, there is no indication in the affidavit or in the reasons under review that the Officer actually considered it and grappled with the information in coming to her decision. In fact, when asked directly during the hearing, counsel for the Respondent conceded that the Officer's affidavit established that the application record submitted by Mr. Ryckman was not considered by the Officer as part of the Further Second Review.

[16] The Officer's failure to consider evidence and arguments that were central to Mr. Ryckman's position is a reviewable error. It deprived Mr. Ryckman of his right to a procedurally fair redetermination of his eligibility and resulted in an unreasonable decision (*Baker v. Canada (Minister of Citizenship and Immigration*, [1999] 2 SCR 817 at para 22; *R. v. Nahanee*, 2022 SCC 37 at para 77; *Vavilov* at para 128)

[17] Having found the decision under review to be unreasonable, I need not address the other arguments raised by Mr. Ryckman.

C. *Remedy*

[18] Mr. Ryckman has requested that this Court do what CRA should have done and assess the evidence and the law to determine whether he "ceased to work for reasons related to COVID-19" and order the CRA to assess his eligibility in light of that finding. I am sympathetic to Mr. Ryckman's desire for a judicial resolution of the question, given that the CRA has twice rendered unreasonable decisions on the question. However, as I explained to Mr. Ryckman during the hearing, this is amounts to a request for a directed verdict, and as a general rule such verdicts are limited to circumstances where it is clear to the Court that a particular outcome is inevitable and that remitting the case would therefore serve no useful purpose (Vavilov at para 142). This is not such a case.

[19] The appropriate remedy is to remit the matter back to the CRA. Deference is due to the administrative body that makes decisions within the realm of its expertise (*Pictou Landing Band Council v. Canada (Attorney General)*, 2013 FC 342 at para 118). Given its expertise, the CRA is better-placed than the Court to reassess the Applicant's eligibility for the CERB.

[20] Mr. Ryckman requests in the alternative that if I remit the matter to the CRA for redetermination I include an order compelling the CRA to provide reasons, justified by the legislation, should an officer again find that he is ineligible for the benefits. There is no need for such an order. Mr. Ryckman is entitled to rely on the CRA complying with binding jurisprudence in the redetermination of his eligibility, including the following as noted in *Vavilov*:

> [127] The principles of justification and transparency require that an administrative decision maker's reasons meaningfully account for the central issues and concerns raised by the parties. The principle that the individual or individuals affected by a decision should have the opportunity to present their case fully and fairly underlies the duty of procedural fairness and is rooted in the right to be heard: *Baker*, at para. 28. The concept of responsive reasons is inherently bound up with this principle, because reasons are the primary mechanism by which decision makers demonstrate that they have actually *listened* to the parties.
>
> [128] Reviewing courts cannot expect administrative decision makers to "respond to every argument or line of possible analysis" (*Newfoundland Nurses*, at para. 25), or to "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (para. 16). To impose such expectations would have a paralyzing effect on the proper functioning of administrative bodies and would needlessly compromise important values such as efficiency and access to justice. However, a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. …

[21] Finally, Mr. Ryckman seeks an order granting him costs. Although the Respondent asserts that Mr. Ryckman is not entitled to costs as an unrepresented litigant, I disagree. The award of costs is at the discretion of the Court (*Rules*, s. 400(1)). I award Mr. Ryckman lump-sum costs in the amount of $1,500. Though modest, this amount reflects the facts that Mr. Ryckman incurred some costs over the course of this application, and this is his second successful judicial review. It serves also to promote settlement in future cases, especially where, as here, the outcome of the application should have been readily apparent to the Respondent.

JUDGMENT in T-2961-24

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to name the Attorney General of Canada as the respondent.

2. The application is granted.

3. The decision of the Canada Revenue Agency dated September 19, 2024, is set aside and the matter is returned for redetermination by a different officer in accordance with these reasons.

4. Costs are awarded to the Applicant in the lump-sum amount of $1500.

"Andrew J. Brouwer"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2961-24
STYLE OF CAUSE:	EDWARD RYCKMAN v ATTORNEY GENEREAL OF CANADA
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JULY 8, 2025
JUDGMENT AND REASONS:	BROUWER J.
DATED:	SEPTEMBER 11, 2025

APPEARANCES:

EDWARD RYCKMAN	FOR THE APPLICANT SELF-REPRESENTED
DEANNA FRAPPIER	FOR THE RESPONDENT

SOLICITORS OF RECORD:

APPLICANT SELF-REPRESENTED	FOR THE APPLICANT
ATTORNEY GENERAL OF CANADA HALIFAX, NOVA SCOTIA	FOR THE RESPONDENT