

Court File No:24-T-150

T-2919-24

Notice of Application

Shanel Higham

Applicant

vs.

Attorney General of Canada

Respondent

Notice of Application

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Federal Court of Appeal, 10060 Jasper Avenue, Edmonton, Alberta.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

October 29, 2024

**ORIGINAL SIGNED BY
LINDSAY KRIEGER
A SIGNÉ L'ORIGINAL**

Issued by:

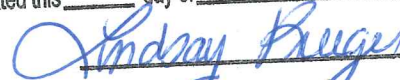
Address of local office:

Edmonton Local Office	Bureau local d'Edmonton
Scotia Place, Tower 1, Suite 530	Place Scotia, Tour 1, pièce 530
10060 Jasper Avenue	10060 avenue Jasper
Post Office Box 51	C.P. 51
Edmonton, Alberta	Edmonton (Alberta)
T5J 3R8	T5J 3R8

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____

day of OCT 29 2024 A.D. 20 _____

Dated this _____ day of OCT 29 2024 20 _____



**LINDSAY KRIEGER
REGISTRY OFFICER
AGENT DU GREFFE**

TO: Attorney General of Canada
Epcor Tower
300, 10423-101 Street
Edmonton, Alberta T5H 0E7

Application for Judicial Review

This is an application for judicial review in respect of the Decision Letter, dated June 24, 2024 for Canada Emergency Response Benefit (CERB) for the applicant by the Minister of National Revenue or her delegate within, Canada Revenue Agency (CRA).

The following facts are relevant and material for the purpose of this application:

Decision under review

1. On or about June 24, 2024, CRA made the decision to that Shanel Higham was not eligible for CERB and required her to pay back the \$13,614 in Covid-19 payments that were received by Ms. Higham. The decision with respect to the ineligibility of CERB will be referred together in this application as the “**Decision**”
2. The Decision was communicated to the applicant on June 24, 2024.

Statement of facts

3. On March 2, 2022, a decision letter was sent to Ms. Higham from (CRA), stating that for the period of:

Canada Emergency Response Benefit (CERB): March 15, 2020, to September 26, 2020

In order to support your eligibility, we require the documents listed in the section(s) below for the applicable review period(s). The documents requested are based on the payment(s) you received, information we have on file, and specific criteria for each benefit

Bank statements showing your income

- Pay stubs
- Letter from employer confirming your income and when it was earned
- Amended T4 with the reduced amounts of income

Ms. Higham sent in documents to support her eligibility of CERB to the CRA.

4. On August 31, 2023, a Second Review letter was emailed to the applicant from CRA, stating:

We are writing to advise you of our decision regarding your Canada Emergency and Recovery Benefits review.

We have completed our review and have carefully considered all the information available. We have determined you are not eligible for the Canada Emergency Response Benefit (CERB).

5. Ms. Higham disagreed with this decision and send letters on four separate occasions from September 22, 2023, to June 17, 2024, asking for a deeper review and that she would not accept the decision from CRA above.

6. CRA continued to send Statement of accounts and notice of collection for CERB to Ms. Higham from October 23, 2023, to June 24, 2024. Ms. Higham did not receive any communication on her request for another review of the Decision.

7. Ms. Higham states tax returns, carbon tax payments are being withheld from her to go towards paying of the CERB debt, even though she has asked multiple times in writing for a second review.

8. On June 24, 2024: Ms. Higham received a phone call from Nalmanee B, Officer of Canada Emergency Benefit Validation. Nilmanee asked the applicant questions to determine her eligibility. The applicant answered that she did earn more than \$1,000 of employment income, she did lose one job, but still had a second job. She explained that her income/hours were reduced for reasons related to COVID-19. She explained her living situation and gave her all the information from the first letter that was sent to CRA. Because the applicant did earn more than \$1,000 during a payment period was the determining factor for being determined that she was not eligible:

On June 25, 2024: Second review letter- no adjustment was sent to the applicant.

Re: Second review for your Canada Emergency Response Benefit application

We are writing to advise you of our decision regarding your request dated June 17, 2024, for a second review of your Canada Emergency Response Benefit (CERB) application.

We have completed our review and have carefully considered all the information available. We have determined you are not eligible for the Canada Emergency Response Benefit (CERB).

You are not eligible for the following reason(s):

- You earned more than \$1,000 of employment or self-employment income during the applicable payment period.*
- You did not stop working or have your hours reduced for reasons related to COVID-19.*

The applicant makes application for an Order:

1. In the nature of *certiorari* to quash and set aside the Decision and abolish the perceived debt of \$13,614 for COVID-19 CERB repayments, on the basis that the Decision is:

- a. Unreasonable;
- b. Does not take in all the facts and hardship of Ms. Higham;
- c. Based on errors of fact; and
- d. An improper exercise of the CRA discretion

The grounds for the application are that:

1. The CRA constitutes a federal board, commission, or other tribunal for the purpose of section 18.1 of the *Federal Courts Act*.

2. In making the Decision, the CRA:

- a. Unreasonably failed to consider the applicant's request that she lost one of her two jobs in March 2020 to March 2021 due to COVID-19 restrictions.
- b. Erred in the fact and in law in concluding that the applicant's circumstances were not "extenuating" or otherwise such that re-appropriation should be granted;
- c. Unreasonably failed to properly consider the applicants circumstances

3. In making the Decision, the CRA has been unlawful, reprehensible, and outrageous and the Applicant is accordingly entitled to her CERB benefits from March 2020 to Sept 2020. The CRA's actions in this matter have unreasonably wasted the time and resources of Ms. Higham and this Honorable Court, and the application should be granted compensation by removing any interest occurred, or payments made and reverse the decision of ineligibility.

4. Such further and other grounds as counsel may argue and this Honorable court accept.

This application will be supported by the following material:

Attachments:

1. Letter submitted by the applicant, to CRA, September 22, 2023
2. Letter submitted by the applicant, to CRA, January 9, 2024
3. Letter submitted by the applicant, to CRA, April 5, 2024
4. Letter submitted by the applicant, to CRA, June 17, 2024
5. Decision Letter sent to the applicant, March 2, 2022
6. Second review letter-no adjustment sent to the applicant, August 31, 2023

7. Notice of redetermination sent to the applicant, September 7, 2023
8. Notice of collection (CERB) sent to the applicant, October 23 ,2023
9. Statement of accounts sent to the applicant, Nov 7, 2023, Jan 9, 2024, Mar 12, 2024, May 14, 2024, July 16, 2024
10. Second review letter-no adjustment sent to the applicant, June 25, 2024

The applicant requests CRA, to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the CRA to the applicant and to the Registry:

11. Any material that is not listed above.



Shanel Higham, 123 McLaughlin Drive, Spruce Grove, AB T7X 0K3,
ShanelHigham@gmail.com

October 29, 2024

SOR/2021-151, s. 22