

Federal Court



Cour fédérale

**Date: 20250811**

**Docket: T-2256-23**

**Citation: 2025 FC 1363**

**Ottawa, Ontario, August 11, 2025**

**PRESENT: The Honourable Justice Darren R. Thorne**

**BETWEEN:**

**SYED ARIF ALI**

**Applicant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Mr. Syed Arif Ali, seeks judicial review of four decisions made by the Canada Revenue Agency [“CRA”] on September 29, 2023. These decisions determined him to be ineligible for benefits that he had previously received from the Canadian government’s COVID-19: (1) Canada Recovery Benefit [“CRB”]; (2) Canada Recovery Caregiving Benefit [“CRCB”]; (3) Canada Recovery Sickness Benefit [“CRSB”]; and (4) the Canada Worker Lockdown Benefit [“CWLB”].

[2] The CRA determined that the Applicant was not eligible for any of those benefits because he had not satisfied the legislative schemes' income eligibility requirement of having earned at least \$5,000 of employment or net self-employment income in 2019, 2020, 2021 or in the 12 months prior to applying for those benefits. In addition, in relation to the CWLB in particular, the CRA essentially found that Mr. Ali was also not eligible for this benefit because, during the period he had claimed the CWLB, the reason he had ceased working was not due to or related to a COVID-19 lockdown. The consequence of these decisions was that the Applicant is required to repay the amounts that he had received in benefits.

[3] For the reasons that follow, this application is dismissed. I find the Applicant has not established that the Decisions are unreasonable.

## II. Background

### A. *First Review Decisions*

[4] The Applicant, who has primarily worked as a rideshare driver for companies such as Uber in recent years, applied for and received certain of the Covid-19 financial support benefits provided by the Canadian government during the global pandemic. In particular, he applied for and received the:

- A. CRB for the series of consecutive two-week periods from September 27, 2020 to September 11, 2021, and also from September 26, 2021 to October 23, 2021;
- B. CRCB for the one-week periods of September 12, 2021 to September 18, 2021, September 19, 2021 to September 25, 2021, October 31, 2021 to November 6, 2021, November 28, 2021 to December 4, 2021, January 2, 2022 to January 8, 2022, and January 9, 2022 to January 15, 2022;

- C. CRSB for the one-week periods of November 7, 2021 to November 13, 2021, November 14, 2021 to November 20, 2021 and December 5, 2021 to December 11, 2021; and
- D. CWLB for the one-week periods from December 19, 2021 to January 1, 2022 and January 16, 2022 to February 12, 2022 [“CWLB Periods”].

[5] On the initial review of Mr. Ali’s eligibility, the CRA determined that he was ineligible for each of the four benefits because he did not satisfy the income eligibility threshold of having earned at least \$5,000 of employment or net self-employment income in 2019, 2020, 2021 or in 12 months prior to the date of his first applications for the benefits in question.

[6] In addition, the CRA found that Mr. Ali was also additionally ineligible for the CWLB for a separate reason. This was because, while the CWLB was a benefit designed to provide financial support to workers who had been rendered unable to work specifically due to a government imposed COVID-19 lockdown, the information provided by the Applicant indicated that the reason he had not been able to work during the period for which he had claimed this benefit was not related to a COVID-19 lockdown. Rather, the Applicant stated that he had initially been hospitalized during this period, and then had left Canada to seek medical treatment in Pakistan during the latter stage of that time.

[7] Mr. Ali was notified of these decisions in four letters issued to him by the CRA, which were all concurrently dated August 23, 2022. Those letters also informed him that he could request a second review of his eligibility for the each of the benefits.

B. *Second Review Decisions*

[8] Mr. Ali requested a second review of his eligibility for each of the Benefits. The CRA assigned one of its officers as the Second Reviewer [the “Officer”]. During the second review, Mr. Ali provided the CRA with documents and submissions relating to his finances and the income he had earned during the periods pertinent to his benefit claims. Among the documents provided by the Applicant was a chart which summarized the Applicant’s income for 2019, 2020 and 2021 [the “Chart”]. This Chart recorded that:

- E. For 2019 he had earned \$23,779.62 of income (revenues or sales), but had incurred \$21,380.66 of expenses, resulting in a net income of \$2,398.96.
- F. For 2020 he had earned \$7,731.27 of income, against \$8,717.90 of expenses for a net income loss of -\$986.63; and
- G. For 2021 he had earned \$7,488.51 of income, against \$7,057.22 of expenses and a net profit of \$431.29.

[9] On September 19, 2023, the Officer also spoke to Mr. Ali by phone, and questioned him about his COVID-19 benefit applications, his circumstances during the periods in question, and in relation to his financial information. In this conversation, the Officer specifically asked him about his approximately \$21,000 in expenses in 2019 as a rideshare driver. The Applicant told them that he did not know what his accountant had done, but rather that he had simply provided this person with his paperwork and information, and that the accountant had provided him with the numbers that he had used.

[10] In the course of the second review, the Officer considered information that included: the previous CRA officers’ notes and information about the Applicant’s case; the Applicant’s reported income and the deductions for the 2019, 2020 and 2021 taxation years, as recorded on

the CRA's computer system (which matched the numbers in the Chart); the CRA's non-binding "Confirming Covid-19 benefits eligibility" guidelines [the "Guidelines"] relied on by Officers to guide their evaluation of COVID-19 benefit eligibility evaluations; and the submissions of the Applicant.

[11] Ultimately, the Officer determined that Mr. Ali was ineligible for the benefits for the periods at issue because he did not satisfy the income threshold of having earned at least \$5,000 of employment or net self-employment income. This was essentially because the legislative scheme governing the various COVID-19 benefit programs mandates that the calculation of the income eligibility threshold is to be based on a recipient's net, rather than gross, self-employment income. As a result, given the revenue and expenses reported by the Applicant and noted in his tax returns, it appeared that he had not earned over \$5,000 net income in any of the years during which he had sought and received the various COVID-19 benefits.

[12] In addition, the Officer also again determined that the Applicant was further ineligible for the CWLB during the period in question, as the reason he had not been working over this time was not due to a COVID-19 lockdown.

[13] In a series of letters dated September 29, 2023, Mr. Ali was notified of the Second Review Decisions [the "Decisions"]. These Decisions underlay this application for judicial review, which the Applicant brought on October 25, 2023. The Applicant essentially alleges that the Decisions were unreasonable.

### III. Preliminary Issues

#### A. *Style of Cause*

[14] Mr. Ali named the “Minister of National Revenue CRA Collection Deptt. [sic] Toronto” as the Respondent in the Notice of Application for this matter.

[15] At the request of the Attorney General, without objection from the Applicant, and in accordance with Rule 303 of the *Federal Courts Rules*, SOR/98-106 [the “*Rules*”], the title of proceedings shall be amended to name the Attorney General of Canada as the respondent in this application.

#### B. *Exception to Rule 302 of the Federal Courts Rules*

[16] In this matter, Mr. Ali seeks judicial review of all four of his COVID-19 benefit decisions by way of a single Notice of Application. Per Rule 302 of the *Rules*, an application for judicial review shall be limited to a single decision or order, unless the Court orders otherwise. As an unrepresented party, Mr. Ali understandably did not know this was the case. However, in this matter, the Respondent submits that an exception to Rule 302 should be allowed and ordered by the Court to permit all four of the Decisions to be considered in this application.

[17] This Court has recognized that closely linked decisions, arising under the same or closely related statutes and reached by the same decision-maker, may be treated as a single decision: *Vincent v. Canada (Attorney General)*, 2024 FC 803, at para 9; *Rehman v. Canada (Attorney General)*, 2023 FC 1534, at paras 15–17. Factors to consider in such cases include whether the decisions are closely connected; whether there are similarities or differences in the fact situations including the type of relief sought; the legal issues raised; the basis of the decisions; the decision

making bodies involved; and, based on the similarities and differences, whether separate reviews would be a waste of time and effort: *Potdar v. Canada (Citizenship and Immigration)*, 2019 FC 842.

[18] In this case, the four decisions challenged by Mr. Ali were all made by the same decision-maker, on the basis of the same record, under two related statutes, and on the same legal basis. Given this, it is my view that it would indeed be a waste of time, effort and judicial resources to require separate reviews for the various decisions in this matter. I am satisfied that the decisions are appropriately considered together as part of this application. In accordance with Rule 3 of the Rules, this is the most just, expeditious, and least expensive manner in which to proceed, and I grant the Applicant leave to bring this application against all four Decisions.

### C. *New Evidence*

[19] As part of this application, Mr. Ali has attached a series of documents including bank statements, tax summaries, an income and expense report, and a letter from the CRA. The Respondent asserts that certain of these documents, namely one entitled “Income and Expense Report for 2019 and 2020” and a series of monthly Scotiabank statements from September 2020 to December 2020, were not previously supplied to the Officer during second review. Accordingly, the Respondent argues that these documents are inadmissible in this proceeding.

[20] I agree. As pointed out by the Respondent, it is trite law that the record before this Court on judicial review is generally restricted to the evidentiary record that was before the administrative decision-maker. Evidence that goes to the merits of the matter and that was not before the decision-maker is generally not be admissible on judicial review: *Association of*

*Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19–20; *Shhadi v Canada (Public Safety and Emergency Preparedness)*, 2024 FC 1580, at para 43; *Bolduc v Canada (Attorney General)*, 2023 FC 1497, at para 48.

[21] In the specific context of a judicial review of CRA decisions under similar COVID-19 benefit programs, this Court has ruled numerous times that it is not to consider additional documents that were not previously submitted to the CRA, since it is not the role of this Court to make a fresh decisions on eligibility: *Alhusaini v Canada (Attorney General)*, 2024 FC 2033, at para 19; *Lussier v Canada (Attorney General)*, 2022 FC 935 at para 2.

[22] The impugned documents go directly to the merits of this matter, and were not part of the evidentiary record before the decision-maker. These documents also do not qualify under any of the exceptions to the above noted principle of admissibility. I find those documents to be inadmissible and cannot consider them. I note however that much of the information contained in those documents is also found in certain of the other documents which the Applicant had previously submitted to the CRA in the course of the reviews of his eligibility for the benefits.

#### IV. Issue and Standard of Review

[23] The issue at play in this matter is whether the Officer's Decisions, which found Mr. Ali ineligible for the various benefits, were reasonable.

[24] The standard of review of the merits of a decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2018 SCC 65 at paras 10, 25 [*Vavilov*]. In undertaking

reasonableness review, the Court must assess whether the decision bears the hallmarks of reasonableness, namely justification, transparency and intelligibility: *Vavilov* at para 99. In particular, when reviewing a decision on this standard, “a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified”: *Vavilov* at para 15. Ultimately, a reasonable decision is one which is “based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law”: *Vavilov* at para 85. Further, an applicant bears the onus of demonstrating that the challenged decision was unreasonable: *Vavilov* at para 100.

## V. Analysis

### A. *Relevant Statutory Provisions*

[25] The *Canada Recovery Benefits Act*, SC 2020, c 12 s 2 [*CRB Act*] is the enabling legislation of the CRB, the CRCB and the CRSB. The *Canada Worker Lockdown Benefit Act*, SC 2021, c 26 s 5 [*CWLB Act*] is the enabling legislation of the CWLB. Both the *CRB Act* and the *CWLB Act* contain identical minimum income eligibility requirements.

#### (1) **The Canada Recovery Benefits Act**

[26] Under the *CRB Act*, and for purposes of an application for CRB, CRSB and CRCB, an applicant must have had an income of at least \$5,000 from employment, self-employment, benefits under the *Employment Insurance Act*, allowances, money, or other benefits paid to under a provincial plan because of pregnancy or care of new-born children or children placed with them for the purpose of adoption, and any other source of income that is prescribed by regulation: *CRB Act*, ss 3(1)(d), 10(1)(d), 17(1)(d).

[27] In addition, the *CRB Act* stipulates that income from self-employment is to be net income for the purposes of the CRB, CRSB, and CRCB. Specifically, it provides that “income from self-employment is revenue from the self-employment less expenses incurred to earn that revenue”: *CRB Act*, ss 3(2), 10(2), 17(2).

(2) **The Canada Worker Lockdown Benefit Act**

[28] Under the *CWLB Act*, and for purposes of an application for CWLB, an applicant must similarly have had an income of at least \$5,000 from employment, self-employment, benefits under the *Employment Insurance Act*, allowances, money, or other benefits paid to under a provincial plan because of pregnancy or care of new-born children or children placed with them for the purpose of adoption, and any other source of income that is prescribed by regulation: *CWLB Act*, s 4(1)(e).

[29] Furthermore, to be eligible for this benefit, an applicant must essentially prove that the reason they were not working, or suffered at least a 50% reduction in working income, during the benefits period claimed was not for reasons that were unrelated to a COVID-19 lockdown: *CWLB Act*, s 4(1)(f).

B. *The Decisions are Reasonable*

[30] As previously noted, the burden of establishing that the Decisions are unreasonable rests upon the Applicant. In that regard, the Court must be satisfied “that there are sufficiently serious short comings in the decision such that it cannot be said to exhibit the requisite degree of justification, transparency and intelligibility”: *Vavilov* at para 100. Based upon my review of the

record, as well as the submissions of the Applicant and the Respondent, I am not satisfied that this burden has been met.

(1) **The finding that the Applicant did not satisfy the \$5,000 income eligibility threshold is not unreasonable.**

[31] In his materials and oral submissions, the Applicant makes few arguments. He primarily asserts that the Decisions are in error because he states that in each of the years of 2019 and 2020 he earned over \$5,000 in net income. He states that both his tax filings with the CRA in relation to those years, and the summary Chart of his revenue and expenses that he provided to the CRA during the two reviews of his benefit claims, were incorrect and misstated his expenses for the years in question. He states that when the proper level of expenses is considered, his net income for both of those years exceeds \$5,000, and that he should therefore have been found eligible for all of the benefits. The Applicant asserts that the errors relating to his expense reporting were the fault of his accountant, who prepared his tax returns as well as the Chart and other information that he provided to the CRA in relation to the reviews of his benefit claims. He also states that he did not realize that these errors had been made until after he received the negative Decisions in the second review, as he had simply used the numbers provided by the accountant, and had been going through an extremely difficult personal time during the pandemic, during which he was not closely monitoring the work of his accountant. The Applicant also states that once he discovered the error, he sought to provide new information relating to his expenses to the CRA, and to have his claims reevaluated, but was not permitted to do so.

[32] The Applicant also faults the CRA for taking 2 ½ years to seek recovery of the benefit money he had been granted. He further states that, during the period of COVID-19, the CRA had

not clarified in its original announcements about the benefit programs that the income thresholds relied on an assessment of recipient's net, as opposed to gross income, and that he had not understood this to be the case. He asserts that the repayment notices have caused him and his family extreme stress and will result in financial hardship should he be required to repay the benefits. The Applicant asks that the Court grant him relief in the form of an order stating that he need not repay the benefits, and that he be allowed to refile his tax returns and that the CRA redetermine his benefit eligibility based on this information and his revised data for his expenses in 2019 and 2020.

[33] While I am extremely sympathetic to the personal circumstances described by Mr. Ali, I cannot find that the Officer's Decisions relating to his eligibility for the CRB, CRCB, CRSB and CWLB were somehow unreasonable. Based on the evidence and financial information that he himself provided to the CRA during his benefit reviews, it was reasonable for the Second Reviewer to conclude that Mr. Ali had made less than \$5,000 in net income, given the revenues and expenses he had reported. The Officer was correct that such income made him ineligible to claim the above noted benefits, under the statutory provisions relating to those programs.

[34] As the Respondent argued, there is no indication that the Officer did not account for the explanations, documents or submissions provided to them by the Applicant during the review, and that the reasoning of the Officer in the decision was clear from their notes, and discussion of the information presented to them. The Respondent notes that in relation to the Applicant's self-employment expenses, the Appellant did not provide any indication that they believed the figures provided were incorrect until after the second review Decisions were issued. Indeed, the Respondent points out that in their September 19, 2023 telephone interview during the second

review, the Officer specifically questioned the Applicant about the 2019 expense figure, putting to the Applicant that he had reported that he had approximately \$21,000 in expenses for that year. The Respondent notes that in response to this, the Applicant did not state that the expense figures were incorrect or otherwise seek to address them, but instead only told the officer that he did not know what the accountant had done, and stated that he had simply given all of his paperwork to the accountant.

[35] The Respondent also pointed out that both the first and second review decisions had featured the same conclusions about the Applicant not satisfying the income eligibility threshold, and that the Applicant did not indicate that there was an error or otherwise seek to correct his expense claims prior to the release of the second review Decisions. They argued that it was therefore reasonable for the Officer to decide based on the information before them. The Respondent also noted that while the Applicant now states that he wants to refile his taxes for 2019 and 2020 to correct the expense numbers, he has taken no steps to do so. Finally, the Respondent argued that while the Applicant has stated that the government had failed to clarify at the outset of the programs that the income eligibility for COVID-19 benefits would be based on net, as opposed to gross income, he led no evidence supporting this claim. The Respondent asserts that, in any event, the Officer was bound to apply the legislative requirements, regardless of the Applicant's understanding of them, and that it was the Applicant's responsibility to both understand the requirements of the benefit programs he sought to access, and to provide accurate information to the CRA in relation to those programs.

[36] I do not find that the Decisions lack the hallmarks of reasonableness. Based on the information before the Officer, the Decisions represent a clear and straightforward application of

the income eligibility requirements of the applicable legislation, and cannot be said to lack internal coherence or a rational chain of analysis.

[37] This finding as to the Applicant's ineligibility under the income threshold for the various benefits is determinative and dispositive of the judicial review of all of the Decisions in application. However, I note that I also find that in relation the CWLB benefit, the Officer's Decision that the Applicant was further ineligible for this specific benefit because he had not been prevented from working or earning income by a government lockdown, during the time he had claimed this benefit, was also not unreasonable. The Applicant made no submissions in relation to this issue, however the evidence was clear that he had ceased working during this time not due to a lockdown, but rather because he was initially ill, and then later because he was not present in Canada as he had travelled to Pakistan.

## VI. Conclusions

[38] For the foregoing reasons, this application for judicial review of the Decisions in question is dismissed.

[39] In concluding, I note the following passage from the Decisions under review:

We understand that it may not be possible for you to pay your debt immediately and in full. We're here to help. The CRA offers various solutions tailored to your personal situation.

[40] At the hearing into this matter, the Applicant movingly explained that he and his wife were going through an exceptionally difficult time during the pandemic and have continued to suffer from financial hardship since that time. They do not know how they will repay the benefits

that they received. In these circumstances, I would expect the CRA to adhere to the representations contained in the Decisions under review, and to exercise flexibility related to the quantum and/or timing of any repayments.

[41] The Respondent has clarified that they will not be seeking costs in this matter. I agree that an award of costs against the Applicant would not be appropriate, and none will be ordered.

**JUDGMENT IN T-2256-23**

**THIS COURT'S JUDGMENT is that**

1. The application for judicial review is dismissed.
2. No costs are awarded.
3. The Applicant is granted leave under Rule 302 of the Federal Courts Rules to allow the four Decisions in question to all be judicially reviewed in this application.
4. The title of proceedings shall be amended to identify the respondent as the Attorney General of Canada

"Darren R. Thorne"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-2256-23

**STYLE OF CAUSE:** SYED ARIF ALI v. AGC

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 15, 2025

**REASONS AND JUDGMENT:** THORNE J.

**DATED:** AUGUST 11, 2025

**APPEARANCES:**

Syed Arif Ali	FOR THE APPLICANT
Randy Ramoodit	FOR THE RESPONDENT

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