

Federal Court



Cour fédérale

Date: 20251002

Docket: 25-T-142

Citation: 2025 FC 1631

Ottawa, Ontario, October 2, 2025

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

NANCY DORTHY ECKERT

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Nancy Dorthy Eckert, filed a motion in writing dated September 17, 2025, pursuant to section 369 of the *Federal Court Rules*, SOR/98-106 [*Rules*], seeking an Order extending the time to commence an Application for Judicial Review [Application] pursuant to subsection 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 [*Act*], of a decision by the Canadian Revenue Agency [CRA] regarding the Canada Recovery Benefit [CRB], rendered on April 8, 2025 [Decision], for another 30 days.

[2] The Respondent, the Attorney General of Canada [ACG], indicated in a letter dated September 22, 2025, that he does not take a position in relation to the Applicant's motion, except to request that the Applicant be required to file a Notice of Application within 14 days of the date of the Court's Order (instead of the 30 days requested), should the Court grant the motion.

[3] Having considered the Applicant motion record, including the affidavit of the Applicant sworn on September 16, 2025, as well as the Applicant's written submissions, the motion is denied.

II. Analysis

[4] The test for a motion to extend the application deadline requires the Applicant to demonstrate a) a continuing intention to pursue her Application; b) that the Application has some merit; c) That no prejudice to the respondent arises from the delay; and d) that a reasonable explanation for the delay exists (*Thompson v Canada (Attorney General)*, 2018 FCA 212 at para 5 [*Thompson*]; *Alberta v Canada*, 2018 FCA 83 at para 44 [*Alberta*]; *Canada (Attorney General) v Larkman*, 2012 FCA 204 [*Larkman*] at para 61; *Canada (Attorney General) v Hennelly*, 1999 CanLII 8190 (FCA), [1999] FCJ No 846, [*Hennelly*] at para 3; *Tanczos v Canada (Attorney General)* 2024 FC 232 [*Tanczos*] at para 1; *Cheng v Canada (Attorney General)*, 2024 FC 1909 [*Cheng*] at para 16).

[5] A decision to grant or refuse an extension is discretionary and the above-mentioned factors are not determinative, meaning that it is not absolutely necessary for all four factors to be resolved in the Applicant's favour for the Court to grant an extension of time (see *Whitefish Lake First*

Nation v Grey, 2019 FCA 275 [*Whitefish*] at para 3; *Larkman* at para 62 ; *Cheng* at para 17). These factors are nonetheless helpful to determine whether the granting of an extension is in the interest of justice (*Whitefish* at para 3; *Alberta* at para 45; *Larkman* at para 62).

[6] The burden is on the Applicant to prove each of these elements (*Viridi v Canada (Minister of National Revenue)*, 2006 FCA 38 at para 2).

[7] Having considered the motion record and the Applicant's submissions, the Court is not convinced that it would be in the interest of justice to grant the motion. The evidence provided is insufficient to satisfy the four factors above-mentioned, governing the Court's exercise of its discretion (*Clinique Sherbrooke inc v His Majesty the King*, 2023 FC 1755 [*Clinique Sherbrooke*] at para 18).

[8] First, while the motion indicates that the Application and supporting documents would be used in support of the said motion, no such document has been filed into the Court record, thereby preventing the Court from assessing whether or not the Application has any merit (*Tanczos* at para 6). The second (and quite possibly the first) factor above-mentioned is not met.

[9] Moreover, the Applicant's explanations for the delay are vague and not persuasive and except for the Applicant's own affidavit, there was no other evidence to substantiate her explanation for a delay of approximately 4 months beyond the limitation period (*Tanczos* at para 8). Therefore, the fourth factor is also not met.

[10] As stated by Justice Gascon in *Clinique Sherbrooke*:

[35] In weighing each of the factors set out in *Larkman* and *Hennelly*, and taking into account the circumstances of this case, I give decisive weight to the total absence of justification for the very long delay and the lack of demonstration that Sherbrooke's application has merit. Following my analysis, I can therefore identify no reason that would allow me to extend the time for filing Sherbrooke's application for judicial review.

[36] It has been repeatedly recognized that undertaking judicial review of administrative tribunal decisions within the relatively short timeframes prescribed by the Act reflects the public interest in the finality of administrative decisions (*Canada v Berhad*, 2005 FCA 267 at para 60 [*Berhad*], leave to appeal to SCC refused, 31166 (May 25, 2006); *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41 at para 24). This time limit "is not whimsical" and exists "in the public interest, in order to bring finality to administrative decisions so as to ensure their effective implementation without delay" (*Berhad* at para 60).

[37] I recognize that the interests of justice remain the paramount consideration in granting an extension of time. But the interests of justice do not exist in a vacuum, and do not absolve applicants of the duty to meet their burden of proof. Here, to exercise my discretion in Sherbrooke's favour would require me to ignore all the established criteria for an extension of time, and to turn a blind eye to the lack of evidence to support each of the factors set out in the case law for considering granting such an extension. The rule of law is based on the fundamental principles of certainty and predictability. The exercise of a discretionary power must originate in the law. The exercise of such a power cannot be adequate or judicious, and in the interests of justice, if it ignores the minimum requirements of the applicable law.

[11] Given the above, the Court is of the view that the Applicant has not met her burden of proving that the test is met, nor that it would be in the interest of justice to grant her an extension of time with respect to the CRB Decision.

JUDGMENT in 25-T-142

THIS COURT'S JUDGMENT is that:

1. The Applicant's motion for an extension of time to file her application for judicial review with respect to the CRB Decision is dismissed.
2. No costs are awarded.

“Danielle Ferron”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: 25-T-142

STYLE OF CAUSE: NANCY DORTHY ECKERT
v ATTORNEY GENERAL OF CANADA

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

JUDGMENT AND REASONS: FERRON J.

DATED: OCTOBER 1, 2025

WRITTEN REPRESENTATIONS BY:

Nancy Dorthy Eckert

ON HER OWN BEHALF

Chelsea Barkhouse

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Justice Canada
Halifax, Nova Scotia

FOR THE RESPONDENT