Federal Court Cour fédérale

Date: 20260428

Docket: T-3320-24

Citation: 2026 FC 559

2026 FC 559 (CanLII)

Ottawa, Ontario, April 28, 2026

PRESENT: Mr. Justice Pentney

BETWEEN:

MAYA KNAUTH

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] Maya Knauth received an overpayment of employment insurance sickness benefits, due to an error by Service Canada. When the error was discovered, she applied to have the amount written off, since it was not her fault. Service Canada refused to do that, and Ms. Knauth seeks judicial review of that decision, arguing that she should not have to repay the $1,366 she received as sickness benefits.

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[2] Ms. Knauth says she did nothing wrong. She is right - I agree with her completely on that point. During the hearing, counsel for the Attorney General of Canada (AGC) confirmed without hesitation that the government's position is not that Ms. Knauth did anything wrong. The question before the Court, however, is whether the decision to refuse to write-off the overpayment was unreasonable.

[3] The AGC represents Service Canada in this matter. The AGC says that Ms. Knauth received more than the maximum allowable weeks of sickness benefits, and the error was discovered and acted upon quickly. The AGC submits that Service Canada had no choice except to recover this overpayment, because the law requires them to do so. The AGC says that Ms. Knauth's case does not fall under any of the situations where an overpayment can be written off, pursuant to s. 56 of the *Employment Insurance Regulations*, SOR/96-332 (the *Regulations*).

[4] I can understand why Ms. Knauth feels that she has been treated unfairly through this process. She did nothing wrong in making her employment insurance claim, and there was nothing she could have done to prevent the situation which resulted in her receiving the amounts of sickness benefits she was paid. Despite all of that, she was overpaid the amount of sickness benefits she was entitled to receive, and this amount was then clawed back, leaving her in financial distress. She has been fighting ever since to right a wrong that she feels has been done to her.

[5] Ms. Knauth is of the opinion that her situation falls under one of the exceptions laid out in the *Regulations* which give Service Canada the discretion to write-off the overpayment.

However, as explained below, I find that Ms. Knauth's situation does not fall into any of the exceptions set out in the law, and so Service Canada has no discretion to write-off the overpayment. This is a sympathetic case, but the law does not provide Service Canada with the discretion to write-off overpayments based on sympathy, or what the law often labels "equitable" considerations.

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[6] For the reasons set out below, the application for judicial review will be dismissed.

II. Background

[7] Ms. Knauth (the Applicant) was employed by Battle River Power Coop (BRPC). She filed a complaint about harassment in the workplace, but an external investigator found her concerns were unsubstantiated. On January 2, 2024, Ms. Knauth's employment was terminated without cause. BRPC paid her vacation pay in the amount of $3,935.50. In addition, BRPC offered her an additional payment of $9,533.33, less statutory deductions, "on a without prejudice and purely gratuitous basis". In exchange for this additional payment, BRPC required her to sign a release that absolved it from any liability and under which Ms. Knauth agreed not to pursue any legal remedies or complaints related to her employment and termination. Ms. Knauth signed the release and was paid a total of $13,468.83 as a result of the termination of her employment.

[8] Ms. Knauth then applied for Employment Insurance [EI] sickness benefits, with a benefit period from January 7, 2024, to March 4, 2024. Service Canada considered the amount of $9,533.33 received by the Applicant to be severance pay and therefore required Ms. Knauth to

serve a longer waiting period before receiving EI sickness benefits. She received less in total benefits as a result.

[9] Ms. Knauth challenged the decision to impose a longer waiting period, and on August 14, 2024, the Social Security Tribunal (SST) upheld her appeal of the characterization of the payment. At the appeal, the Canada Employment Insurance Commission (the Commission) conceded that the amount was actually compensation for any potential damages that she could have claimed as a result of her dismissal. The SST confirmed that this amount should have been treated as compensation and not severance pay. Therefore, the amount should not have been considered as earnings, and Ms. Knauth should not have been subject to the longer waiting period for her EI benefits. As a result of the SST's decision, the Applicant's EI claim was recalculated and payment was processed for the weeks of February 4, 2024, to February 24, 2024.

[10] According to the Respondent, Service Canada made an administrative error when recalculating and processing payment for the additional weeks, resulting in an overpayment. Ms. Knauth was paid for 28 weeks of sickness benefits, but the maximum number of weeks of sickness benefits that can be paid under the legislation is 26. Because of this mistake, she received three weeks of benefits when she was only entitled to one. The additional two weeks of benefits were an overpayment of $1,336.

[11] The payments for the additional weeks of sickness benefits were processed on September 5, 2024, when Ms. Knauth's EI claim was converted from sickness benefits to regular benefits.

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On September 7, 2024, she received a Notice of Debt from Employment and Social Development Canada for the overpayment. On September 18, 2024, Ms. Knauth applied for reconsideration of the notice of debt. A series of phone calls between Service Canada and the Applicant ensued. On October 18, 2024, Service Canada refused to reconsider the notice of debt.

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[12] Further communication between the Applicant and Service Canada followed this decision. Ms. Knauth vehemently maintained that the amount of the overpayment should be returned to her. On October 24, 2024, Service Canada refused to write-off the EI overpayment. The letter of decision explains that the overpayment does not meet the conditions for a write-off that are set out in subsections 56(1)(e) and 56(2) of the *Regulations*. The core of the decision mirrors the following statement, which was set out in an October 18, 2024, letter explaining the refusal to reconsider the notice of debt:

> The Employment Insurance Commission cannot follow through with this request for reconsideration because we do not have authority to reconsider this issue. You were paid 28 weeks of sickness benefits when the maximum entitlement is 26 weeks. You applied for reconsideration and associated this overpayment with a previous decision related to your separation monies. This overpayment is not related to your successful SST appeal. A reconsideration under section 112 of the EI Act cannot take place because the overpayment is the result of being paid contrary to the EI Act. The maximum entitlement to sickness benefits is 26 weeks.

[13] The Applicant seeks judicial review of Service Canada's decision to not reconsider writing off the overpayment debt.

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III. Issues and Standard of Review

[14] The only issue in this case is whether the decision to refuse to write-off the overpayment debt is reasonable. Although the Applicant raised a question about procedural fairness in her written submissions, the focus of her argument is on the merits of the decision, and I cannot find any breach of fairness in this case.

[15] This issue is assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*].

[16] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85; *Mason* at para 8). The onus is on the Applicant to demonstrate that "any shortcomings or flaws … are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

IV. Analysis

[17] The Applicant argues that her problems started when a Service Canada representative wrongly recorded the $9,533.33 payment as severance. She says that she had clearly stated that

this was “hush money” paid to her when she signed an agreement with BRPC when her employment was terminated, but apparently the Service Canada employee did not understand what that meant. Ms. Knauth argues that it was up to Service Canada to ensure that the employer filed a correct Record of Employment, which was not done in this case. As a result, she was forced to appeal to the SST in order to correct the error, and when that was successful, Service Canada recalculated her benefits and paid her the additional sick leave she should have received in the first place. She says they then clawed back her EI payments, claiming that she had received an overpayment of her EI sickness benefits.

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[18] Ms. Knauth submits that the decision to refuse to waive the overpayment is not justified. The fact that she received additional EI sickness benefits was entirely due to the errors made by Service Canada. She says that her case fits within the rules for waiving overpayments, which are set out in s. 56(1) and 56(2) of the *Regulations*. In particular, Ms. Knauth points to the provisions in s. 56(1)(e) that specify that an amount may be written off if “the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor…” and the overpayment arose from “a retrospective decision or ruling made under … the Act”. Ms. Knauth argues that this is exactly her case: she did not try to mislead anyone and did not make any false declaration, and she says the SST’s retroactive decision about her earnings is what led to the overpayment.

[19] While I have some sympathy for the frustration Ms. Knauth feels as a result of the lengthy processes she has had to endure in trying to get help, I am unable to find that the decision is unreasonable.

[20] The law is clear that the maximum number of weeks of EI sickness benefits is 26. But Ms. Knauth was mistakenly paid for 28 weeks, resulting in an overpayment of $1,336. Overpayments made under the EI scheme become debts due to the Crown: *Employment Insurance Act*, SC 1996, c 23 (*EI Act*), s. 47(1).

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[21] The *Regulations* set out the circumstances under which the Commission can write-off a debt:

Section 56 of the Employment Insurance Regulations**,** SOR/96-332

56.(1) A penalty owing under se ction 38, 39 or 65.1 of the Act or an amount payable under section 43, 45, 46 , 46.1 or 65 of the Act, or the interest accrued on the penalty or amount, may be written off by the Commission if	(1) La Commission peut défalquer une pénalité à payer en application des articles 38, 39 ou 65.1 de la Loi ou une somme due aux termes des articles 43, 45, 46, 46.1 ou 65 de la Loi ou les intérêts courus sur cette pénalité ou cette somme si, selon le cas :
(a) the total of the penalties and amounts, including the interest accrued on those penalties and amounts, owing by the debtor to Her Majesty under any program administered by the Department of Human Resources Development does not exceed $20, a benefit period is not currently running in respect of the debtor and the debtor is not currently making regular payments on a repayment plan;	a) le total des pénalités et des sommes, y compris les intérêts courus, que le débiteur doit à Sa Majesté en vertu de tout programme administré par le ministère du Développement des ressources humaines ne dépasse pas vingt dollars, aucune période de prestations n’est en cours pour le débiteur, et ce dernier ne verse pas de paiements réguliers en vertu d’un plan de remboursement;
(b) the debtor is deceased;	b) le débiteur est décédé;

(c) the debtor is a discharged bankrupt;

(d) the debtor is an undischarged bankrupt in respect of whom the final dividend has been paid and the trustee has been discharged;

(e) the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not, but arises from

(i) a retrospective decision or ruling made under Part IV of the Act, or

(ii) a retrospective decision made under Part I or IV of the Act in relation to benefits paid under section 25 of the Act; or

(f) the Commission considers that, having regard to all the circumstances,

(i) the penalty or amount, or the interest accrued on it, is uncollectable, or

(ii) the repayment of the penalty or amount, or the interest accrued on it, would result in undue hardship to the debtor.

(2) The portion of an amount owing under section 47 o r 65 of the Act in

c) le débiteur est un failli libéré;

d) le débiteur est un failli non libéré à l'égard duquel le dernier dividende a été payé et le syndic a été libéré;

e) le versement excédentaire ne résulte pas d'une erreur du débiteur ni d'une déclaration fausse ou trompeuse de celui-ci, qu'il ait ou non su que la déclaration était fausse ou trompeuse, mais découle :

(i) soit d'une décision rétrospective rendue en vertu de la partie IV de la Loi,

(ii) soit d'une décision rétrospective rendue en vertu des parties I ou IV de la Loi à l'égard des prestations versées selon l'article 25 de la Loi;

f) elle estime, compte tenu des circonstances, que :

(i) soit la pénalité ou la somme, y compris les intérêts courus, est irrécouvrable,

(ii) soit le remboursement de la pénalité ou de la somme, y compris les intérêts courus, imposerait au débiteur un préjudice abusif.

(2) La Commission peut défalquer la partie de toute somme due aux termes des

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respect of benefits received more than 12 months before the Commission notifies the debtor of the overpay ment, including the interest accrued on it, may be written off by the Commission if

(a) the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not; and

(b) the overpayment arises as a result of

(i) a delay or error made by the Commission in processing a claim for benefits,

(ii) retrospective control procedures or a retrospective review initiated by the Commission,

(iii) an error made on the record of employment by the employer,

(iv) an incorrect calculation by the employer of the debtor's insurable earnings or hours of insurable employment, or

(v) an error in insuring the employment or other activity of the debtor.

articles 47 ou 65 de la Loi qui se rapporte à des prestations reçues plus de douze mois avant qu’elle avise le débiteur du versement excédentaire, y compris les intérêts courus, si les conditions suivantes sont réunies :

a) le versement excédentaire ne résulte pas d’une erreur du débiteur ni d’une déclaration fausse ou trompeuse de celui-ci, qu’il ait ou non su que la déclaration était fausse ou trompeuse;

b) le versement excédentaire est attribuable à l’un des facteurs suivants :

(i) un retard ou une erreur de la part de la Commission dans le traitement d’une demande de prestations,

(ii) des mesures de contrôle rétrospectives ou un examen rétrospectif entrepris par la Commission,

(iii) une erreur dans le relevé d’emploi établi par l’employeur

(iv) une erreur dans le calcul, par l’employeur, de la rémunération assurable ou du nombre d’heures d’emploi assurable du débiteur,

(v) le fait d’avoir assuré par erreur l’emploi ou une autre activité du débiteur.

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[22] Ms. Knauth says her situation falls under the exception provided for by s. 56(1)(e) of the *Regulations*, because she says the overpayment was not her fault, and resulted from a retrospective decision made under the *EI Act*. I can see how, from Ms. Knauth's perspective, the overpayment could seem to be linked to the retroactive decision of the SST on the characterization of the payments she received when her employment was terminated. The Respondent acknowledged that the overpayment debt was created when that decision was implemented. However, Service Canada maintains that the overpayment did not arise from the successful SST appeal. They point out that the SST ruled in Ms. Knauth's favour on the issue of the characterization of her pay upon termination, and they say that decision was implemented correctly. Service Canada says the overpayment resulted from an administrative error on their part when recalculating her claim based on the SST decision and converting her claim from sickness benefits to regular benefits.

[23] To be fair to Ms. Knauth, this distinction is not well explained in the written reasons that were provided to her. The decision letters provided to Ms. Knauth were formulaic, relatively sparse and devoid of plain language explanation. However, I note that she had several phone calls with Service Canada after the reasons were issued, during which she had the opportunity to learn more about the decision and why it was made. The notes from those phone calls are part of the record before this Court and bring the decision within the standard of justification and intelligibility set out in *Vavilov*.

[24] The fact that the error was entirely due to the actions of a Service Canada employee does not, in itself, entitle Ms. Knauth to a write-off of the overpayment. I find that the decision shows

that Service Canada considered Ms. Knauth's circumstances and the arguments she put forward. It applied the appropriate legal test and followed the two-step framework set out in *Bernatchez v Canada (Attorney General)*, 2013 FC 111 [*Bernatchez]*.

[25] As explained in *Bernatchez* at paras 17-18, and 30, the debt write-off framework requires a two-stage assessment: first, the Commission must determine whether the situation falls within s. 56 at all, that is, whether it has any discretion to exercise. If it does, then the second step is for the Commission to decide whether to exercise its discretion to grant a write-off.

[26] Ms. Knauth's case did not fall under s. 56(1)(e) because it did not arise from a retrospective decision or ruling under the *EI Act*. Rather, it arose from an error that was made by a Service Canada employee when implementing the decision regarding her earnings. Her case did not fall under s. 56(2) because the overpayment was discovered quickly and the action to recover it was started less than 12 months after the overpayment was made.

[27] The Respondent points out that the other provisions in s. 56 of the EI Act also did not apply: the debt was more than $100, Ms. Knauth was not deceased or bankrupt, and she did not indicate circumstances of financial hardship. Moreover, she did not raise allegations that called for consideration of undue hardship.

[28] Although Ms. Knauth may believe that the outcome is overly harsh, I can find no basis to set the decision aside.

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[29] During the hearing, Ms. Knauth explained that she believes that employers are getting away with filing incorrect records of employment that allows them to hide cases of wrongful dismissal. She sees her case as part of a wider pattern, and she indicated that she is pursuing other remedies to try to address this concern. I note this because she raised it at the hearing; as I explained to her, these types of concerns fall outside of the scope of this application and the evidence in the record concerns only her situation.

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[30] Finally, I understand why Ms. Knauth feels extremely frustrated by all of the hoops she has had to jump through in pursuing her case. She had to appeal to the SST to correct the error in how the payment was treated. She then asked for the overpayment to be written off, and when that was denied she asked for a reconsideration. When that was not successful, she applied for judicial review and had to comply with the Court's complicated Rules and procedures. This has taken a long time and been very stressful for her. I acknowledge that, and it is regrettable that she has had to go through all of this. Ms. Knauth will be disappointed with the outcome here, but I want to assure her that I considered her arguments very carefully.

[31] For the reasons set out above, this application for judicial review will be dismissed. The Respondent did not seek its costs, and none will be ordered.

[32] One final procedural note. Ms. Knauth's application named Service Canada and the Commission, as well as Employment and Social Development Canada as respondents. As indicated at the hearing, the proper respondent is the Attorney General of Canada, and the style of cause is amended to reflect that, with immediate effect.

JUDGMENT in T-3320-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No costs are awarded.
3. The style of cause is amended, with immediate effect, to name the Attorney General of Canada as respondent.

"William F. Pentney"
Judge

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-3320-24
STYLE OF CAUSE:	MAYA KNAUTH v THE ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	EDMONTON, ALBERTA
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DATED:	APRIL 28 2026

APPEARANCES:

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Rebekah Ferriss	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Gatineau, Quebec	FOR THE RESPONDENT

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