

Federal Court



Cour fédérale

Date: 20251125

Docket: T-1394-25

Citation: 2025 FC 1867

Ottawa, Ontario, November 25, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

MARTHA LESCHER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Martha Lescher, who represents herself, seeks review of the Canada Revenue Agency (CRA) decision that she was ineligible for the Canada Recovery Benefit (CRB) received between February 28, 2021 and October 23, 2021. She was denied benefits on the basis that she did not earn \$5,000 in 2019, 2020, or the 12 months prior to her CRB application.

[2] For the following reasons, I am granting this judicial review on the grounds that the decision is unreasonable as CRA failed to address a legislative criterion.

I. Background

[3] Ms. Lescher applied for, and received, CRB between February 28, 2021 and October 23, 2021.

[4] On March 31, 2023, CRA asked her to provide documentation confirming her entitlement to CRB. Although CRA received these documents on June 19, 2023, the CRA employee reviewing Ms. Lescher's file mistakenly thought the documents were not received. This led to CRA sending her a letter, dated August 8, 2023, stating that she was ineligible for CRB because she did not earn over \$5,000 in 2019, 2020, or the 12 months prior to her CRB application.

[5] Ms. Lescher requested CRA to review the decision in the August 8 letter, submitted additional documents over the following months, and spoke with a CRA agent by phone on March 10, 2025.

[6] CRA issued a second decision in a March 26, 2025 letter, finding that she was ineligible for CRB because she did not earn over \$5,000 in 2019, 2020, or the 12 months prior to her CRB application. This decision is the subject of this judicial review.

II. Preliminary issues

[7] The Respondent raises a couple of preliminary issues.

[8] First, the Respondent noted that the proper named Respondent pursuant to the *Federal Courts Rules*, SOR/98-106, ss 303(2) should be the “Attorney General of Canada”. Accordingly, the style of cause is hereby amended with immediate effect.

[9] Second, the Respondent objects to some materials in the record filed by Ms. Lescher – namely two links to websites that relate to the cost of homelessness and mental illness in Canada. The Respondent objects as this information was not before CRA when it made its March 2025 decision, and therefore was not considered by CRA.

[10] Generally, on judicial review, any evidence that was not before the decision maker (CRA) is not admissible on judicial review, because this Court’s role is to review the underlying decision (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19-20 [*Access Copyright*]).

[11] The *Access Copyright* case does provide some exceptions to this general rule, but Ms. Lescher’s materials do not fall within these exceptions. These documents are therefore not admissible and will not be considered. In any event, these documents are irrelevant to the issues on this judicial review.

III. Issues and standard of review

[12] Ms. Lescher argues that the CRA decision is not reasonable, and that she did not have a fair consideration of her entitlement to CRB.

[13] The standard of review for CRB eligibility decisions is reasonableness (*Coscarelli v Canada (Attorney General)*, 2022 FC 1659 at para 17). The question of whether she had a fair process is reviewed on a correctness-like standard (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 34).

IV. Analysis

A. *Reasonableness*

[14] The core of Ms. Lescher's claim is that CRA never fully assessed her eligibility for CRB.

[15] CRB is administered according to the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [CRB Act]. CRB eligibility requires an applicant to have earned a total income of at least \$5,000 from various sources, including self-employment (CRB Act, para 3(1)(d)(ii)). Under the CRB Act, self-employment income is defined as net self-employment income, rather than gross self-employment income (CRB Act, ss 3(2)). These provisions have remained unchanged since the CRB Act's enactment (*Morozova v Canada (Attorney General)*, 2025 FC 1070 at para 19 [*Morozova*]). As such, the CRA agent was correct in assessing Ms. Lescher's eligibility based on net self-employment income.

[16] The T1Case notes indicate that Ms. Lescher had net self-employment income of \$1,733.92 in 2019 and \$3,459.19 in 2020. These amounts are below the \$5,000 threshold specified in the CRB Act. However, the T1Case notes do not address if Ms. Lescher had net income in excess of \$5,000 in the 12 months prior to her CRB application. The CRB Act required the agent to consider whether the Applicant had at least \$5,000 in net self-employment income in the 12 months prior to her application for CRB (CRB Act, para 3(1)(d)). Based upon the information before the Court, it is unclear what date Ms. Lescher first applied for CRB. The Respondent's Record includes no information on this point and Ms. Lescher states that she does not have a copy of her CRB application. I note here that a certified tribunal record was not provided, and the Affidavit of Mark Day, the CRA employee who made the decision under review, does not address this point.

[17] The decision letter states that Ms. Lescher was ineligible because she did not meet the income threshold, which could be met by earning \$5,000 in net self-employment income in the 12 months prior to the CRB application. However, there is no evidence that CRA considered the 12-month time frame for eligibility. The failure of CRA to address eligibility for this 12-month time frame renders the decision unreasonable.

B. *Procedural fairness*

[18] Ms. Lescher argues that the CRA website and application form did not initially specify whether eligibility depended on net or gross self-employment income, and that she had no reason to be aware of the statutory requirement for net self-employment income.

[19] While the communications from CRA regarding CRB benefits was not a model of clarity, the legislative definition for self-employment income is provided in the CRB Act, and a CRB applicant is taken to know the law, even if they misunderstand its meaning (*Dekany v Canada (Attorney General)*, 2025 FC 397 at para 40). Additionally, the CRB Act legislative criteria could not be overridden by CRA’s representations (*Khosroabadi v Canada (Attorney General)*, 2025 FC 1106 at paras 25-27; *Morozova* at para 23).

[20] Ms. Lescher also argues that CRA’s service violated various provisions of the “Taxpayer Bill of Rights” by providing untimely service and lacking professionalism. The Taxpayer Bill of Rights is an “administrative guide published by the CRA, pledging certain service standards” (*Olivet v Canada (Attorney General)*, 2024 FC 1452 at para 44 [*Olivet*]).

[21] This Court has found that it “has no power to enforce the Taxpayer Bill of Rights which is nothing more than a service pledge with no force of law” (*Maloney v Canada (Attorney General)*, 2024 FC 1474 at para 49; see also *El-Nakady v Canada*, 2024 FC 254 at para 37). Any complaints Ms. Lescher has regarding service provided by CRA must be pursued in the manner outlined in the Taxpayer Bill of Rights (*Olivet* at para 46).

V. Conclusion

[22] The judicial review is granted. Ms. Lescher’s application shall be reconsidered by a different CRA agent.

[23] As Ms. Lescher represents herself on this matter, I decline to award costs.

JUDGMENT IN T-1394-25

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended, with immediate effect, to name the Attorney General of Canada as the sole Respondent;
2. The application for judicial review is granted and the matter is referred back to the Canada Revenue Agency for redetermination by another agent; and
3. No costs are awarded.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1394-25

STYLE OF CAUSE: LESCHER V CANADA REVENUE ASSOCIATION

**HEARING HELD BY
VIDEOCONFERENCE AT:** VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: NOVEMBER 12, 2025

JUDGMENT AND REASONS: MCDONALD J.

DATED: NOVEMBER 25, 2025

APPEARANCES:

Martha Lescher (ON HER OWN BEHALF)

Kegan Chang FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A FOR THE APPLICANT

Attorney General of Canada
Ottawa, Ontario FOR THE RESPONDENT