

Federal Court



Cour fédérale

Date: 20251113

Docket: T-400-24

Citation: 2025 FC 1817

Ottawa, Ontario, November 13, 2025

PRESENT: Madam Justice Azmudeh

BETWEEN:

NADERA PATANG

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Nadera Patang (Ms. Patang) challenges a January 30, 2024 decision (Decision) by the Canada Revenue Agency (CRA) confirming that she owes \$3,000 to the CRA. Ms. Patang received two \$2,000 Canada Emergency Response Benefit (CERB) payments for which she was ineligible between March 15, 2020 and May 9, 2020, and repaid \$1,000.

[2] Ms. Patang does not dispute that she received both Employment Insurance (EI) and CERB payments at the same time. However, she stated that a Service Canada agent (Agent) administering EI told her that she could keep the \$3,000 CERB overpayment on the phone by not collecting EI of equal value. As a result, she then did not apply for EI in subsequent months where she likely would have been eligible.

[3] After two reviews by different CRA officers, the CRA asked Ms. Patang to repay the \$3,000 overpayment of CERB. She challenges the CRA's second redetermination of the issue.

[4] I am sympathetic to the Applicant's situation. I have no reason to doubt that she honestly relied on the Agent's advice and believed that overpayment for one program (CERB) could be offset against not collecting another (EI). I also understand that she found it frustrating to navigate the multitude of programs administered by different government bodies. I also understand that it was reasonable for her to have trusted the authority of the advice she got from a government employee, even though that employee had no authority to bind the program administered by another government entity.

[5] As this Court's ability to offer remedies is limited in the judicial review process, I can only hope that the relevant authorities consider this matter more globally to offer an equitable solution.

[6] Nevertheless, I find the only decision for consideration on this judicial review is the CRA's officer's decision confirming the CERB benefits. For the reasons that follow, I find the Officer's Decision to be reasonable. I therefore dismiss the Applicant's judicial review application.

II. Preliminary Issues

A. *The Style of Cause*

[7] The Applicant is self-represented and has filed her application naming the “Social Benefits Tribunals” as the Respondent. The Respondent submits that as the Applicant is challenging a decision made by the CRA on behalf of the Minister of Employment and Social Development, the proper Respondent is the Attorney General of Canada. I agree.

[8] The style of cause is therefore amended to note the “Attorney General of Canada” as the Respondent, in accordance with Rule 303(2) of the *Federal Courts Rules*, SOR/98-106 [*Rules*].

III. Standard of Review

[9] The standard of review applicable in this case is reasonableness (*Aryan v Canada (Attorney General)*, 2022 FC 139 at paras 15–16). The parties do not dispute this.

[10] When the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision-maker and to assess whether the decision was based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision-maker” (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]). The reviewing court must therefore ask “whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility” (*Vavilov* at para 99, citing *Dunsmuir v New Brunswick*, 2008 SCC 9, at paras 47, 74). It is up to the party challenging an administrative decision to show that it is unreasonable.

IV. AnalysisA. *Was the Decision reasonable?*

[11] The enabling legislation of the CERB is the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [*CERB Act*]. Unfortunately for Ms. Patang, section 6(1) of the *CERB Act* prohibits the simultaneous collection of CERB and EI payments:

6 (1) A worker is eligible for an income support payment if

(a) the worker, whether employed or self-employed, ceases working for reasons related to COVID-19 for at least 14 consecutive days within the four-week period in respect of which they apply for the payment; and

(b) they do not receive, in respect of the consecutive days on which they have ceased working,

(ii) benefits, as defined in subsection 2(1) of the *Employment Insurance Act*, or an employment insurance emergency response benefit referred to in section 153.7 of that Act, (emphasis added).

[12] Ms. Patang was ineligible to receive CERB payments because she received benefits under the *Employment Insurance Act*, SC 1996, c 23 [*EI Act*] for the same period. Ms. Patang does not dispute this fact. Furthermore, subsection 12(1) of the *CERB Act* creates a mandatory obligation on the individual who was not entitled in the first place to repay income support payments:

12 (1) If the Minister determines that a person has received an income support payment to which the person is not entitled, or an amount in excess of the amount of such a payment to which the person is entitled, the person must repay the amount of the payment or the excess amount, as the case may be, as soon as is feasible.

[13] However brief, the reasons are consistent with the non-discretionary language of the governing legislation and are responsive to the underlying facts. I therefore find them to be reasonable.

B. *Does Ms. Patang’s reliance on the Service Canada agent’s promise entitle them to promissory estoppel?*

[14] The fact that Ms. Patang relied on a Service Canada agent’s representations potentially raises public law estoppel as an issue. Even though Ms. Patang, who represented herself at the hearing, did not raise the issue, I told the parties that I would deal with it. Public law promissory estoppel may have allowed Ms. Patang to rely on the benefit of the agent’s representations.

[15] Promissory estoppel can arise from the representations of a public official. The Supreme Court of Canada has held that “In the public law context, promissory estoppel requires proof of a clear and unambiguous promise made to a citizen by a public authority in order to induce the citizen to perform certain acts. In addition, the citizen must have relied on the promise and acted on it by changing his or her conduct” (*Immeubles Jacques Robitaille inc v Québec (city)*, 2014 SCC 34 at para 19 [*Immeubles Jacques Robitaille*], citing *Mount Sinai Hospital Center v Quebec (Minister of Health and Social Services)*, 2001 SCC 41, at paras 45-46 [*Mount Sinai*]).

[16] At the same time, estoppel in public law yields “to an overriding public interest” and cannot be invoked to “prevent the application of an express legislative provision” (*Immeubles Jacques Robitaille* at para 20). The SCC notes that promises made by public authorities in

previous cases, where estoppel was allowed, were “not unlawful” or were “consistent with a statutory discretion” (*Immeubles Jacques Robitaille* at para 21).

[17] In this case, both bars for public law estoppel would apply. First, the legislative provision entitling a claimant to benefits was express. As justice Fothergill has held in a similar case, the “legislation is paramount” in such contexts (*Flock v Canada (Attorney General)*, 2022 FC 305 at para 23, citing *Mount Sinai* at paras 35, 47).

[18] Second, the Service Canada employee’s promise would have been inconsistent with the statutory discretion afforded to them, owing to the fact that A) they would have been exercising delegated ministerial powers under the EI Act, not the CERB Act, and B) the obligation to pay benefits to Ms. Patang (and her corresponding obligation to repay them) was mandatory, and therefore to contradict them was to contradict the express text of the statute.

V. Conclusion

[19] The CRA’s decision was reasonable, and, as unfortunate as Ms. Patang’s situation is, no issue of promissory estoppel allows the claimant to recover.

[20] The application for judicial review is dismissed, without costs.

JUDGMENT in T-400-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed, without costs.

"Negar Azmudeh"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-400-24

STYLE OF CAUSE: NADERA PATANG v. ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 6, 2025

REASONS FOR JUDGMENT AND JUDGMENT: AZMUDEH J.

DATED: NOVEMBER 13, 2025

APPEARANCES:

Nadera Patang ON HER OWN BEHALF

Noemie Martel FOR THE RESPONDENT

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