

Federal Court



Cour fédérale

Date: 20251128

Docket: T-605-25

Citation: 2025 FC 1901

Toronto, Ontario, November 28, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

MULAT ABAYE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of a Canada Revenue Agency (“CRA”) second-review decision (the “Decision”) concerning the Applicant’s eligibility for the Canada Recovery Benefit (“CRB”).

[2] For the reasons that follow, the application is allowed in part.

II. Background

[3] The Applicant, who is self-represented, applied for the CRB for periods from September 27, 2020 to July 3, 2021.

[4] A first CRA officer (the “First Officer”) determined the Applicant was not eligible and so advised by letter dated January 22, 2024. The Applicant provided the CRA with additional submissions on February 21, 2024. The CRA treated these submissions as a request for a second review of the decision.

[5] A different CRA officer (the “Second Officer”) conducted the second review.

III. The Decision

[6] The Second Officer considered the First Officer’s notes, CRA income information for 2019 to 2021, and the Applicant’s submissions received on October 12, 2022 and February 21, 2024. The Second Officer spoke with the Applicant by telephone on January 27, 2025 and told him that she would review his file.

[7] By letter dated January 31, 2025, the CRA advised the Applicant that he was ineligible for the periods of September 27, 2020 to October 10, 2020 and April 11, 2021 to July 3, 2021 because:

- a) he quit his job voluntarily; and

- b) he did not have a 50 percent reduction in his average weekly income compared to the previous year due to COVID-19.

[8] The Decision letter contains a typographical error listing “April 11, 2020 to July 3, 2020.” The record and the Second Officer’s notes make clear that the intended dates were April 11, 2021 to July 3, 2021.

[9] The Second Officer’s notes set out her findings more precisely than the letter sent to the Applicant; she found the Applicant ineligible for:

- a) the period of September 27, 2020 to October 10, 2020 because he had not experienced a 50 percent reduction in average weekly income due to COVID-19; and
- b) the period of April 11, 2021 to July 3, 2021 because he had voluntarily quit his job to attend a training course.

[10] The Second Officer confirmed the Applicant’s CRB eligibility for the intervening periods, which were October 11, 2020 to April 10, 2021.

IV. Issues

[11] There are three issues in this proceeding:

1. Whether the Court should consider materials that were not before the Second Officer.
2. Whether the CRA breached the duty of procedural fairness owed to the Applicant.

3. Whether the Decision was reasonable.

[12] The Respondent also raises the preliminary matter of whether the CRA is the proper respondent under Rule 303 of the *Federal Courts Rules*, SOR/98-106 (the “Rules”).

V. Standard of Review

[13] The standard of review with respect to the Second Officer’s substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 25). The standard of review with respect to the Applicant’s procedural rights is correctness or a standard with the same import (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 34-35 and 54-55, citing *Mission Institution v Khela*, 2014 SCC 24 at para 79).

VI. Analysis

A. *Proper Respondent*

[14] The Applicant named the CRA as the respondent. The proper responding party is the Attorney General of Canada and the style of cause is hereby amended accordingly.

B. *Scope of the Record and Fresh Evidence*

[15] On judicial review, the Court generally confines itself to the record before the decision maker, subject to limited exceptions such as to provide general background information, to point

out procedural defects not evident in the record, or to highlight the complete lack of evidence before the decision maker on a particular finding (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19-20; *Sharma v Canada (Attorney General)*, 2018 FCA 48 at para 8).

[16] The Applicant submits materials that were not before the Second Officer, some of which post-date the Decision, including:

- a) a subsequent CRA “Notice of Redetermination” letter dated February 6, 2025, which addresses repayment but does not alter the operative result of the Decision;
- b) a February 11, 2025 employer letter; and
- c) family identification documents.

[17] These materials go to the merits of the Applicant’s CRB eligibility or are otherwise immaterial to the issues decided on the Second Officer’s review. They do not meet the necessary criteria to satisfy any of the enumerated exceptions and I do not consider them.

C. *Legislative Framework*

[18] Section 3 of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [*CRB Act*] sets out the CRB eligibility criteria, including:

- a) during the benefit period, for reasons related to COVID-19, the Applicant must have had a reduction of at least 50 percent in average weekly employment income relative to 2019 or in the 12 months prior to his CRB application date (*CRB Act*, s 3(f)(i)); and

- b) the Applicant must not, on or after the first day of the first CRB period paid, have quit employment or voluntarily ceased to work, unless it was reasonable to do so (*CRB Act*, s 3(1)(i)).

[19] These statutory requirements are non-discretionary (*Flock v Canada (Attorney General)*, 2022 FCA 187 at para 4). Section 6 of the *CRB Act* authorizes the Minister of Employment and Social Development to require information to verify an applicant's eligibility for benefits.

D. *Procedural Fairness*

[20] Procedural fairness required that the Applicant receive notice of the case to meet and a meaningful opportunity to provide information supporting eligibility. The second-review process afforded the Applicant an opportunity to file submissions, and the Second Officer made telephone contact with the Applicant and recorded the information received. There was no breach of procedural fairness.

E. *Reasonableness of the Decision*

[21] The Applicant submits that he took leave from his security job to care for his children during the COVID-19 pandemic. The Second Officer acknowledged this explanation and, by finding him eligible for benefits for CRB periods 2 to 14, implicitly accepted it in part, but concluded that he did not meet the statutory requirements for CRB period 1 and periods 15 to 20.

[22] For CRB period 1, from September 27, 2020 to October 10, 2020, the Second Officer found the Applicant ineligible. She compared the Applicant's earnings during the first claimed period, using the pay stubs he supplied, to his 2019 average weekly employment income drawn from CRA systems. The Second Officer calculated the 50 percent threshold and determined that the Applicant earned more than that amount in period 1, so the income reduction requirement was not met.

[23] For CRB periods 2 to 14, from October 11, 2020 to April 10, 2021, the Second Officer found the Applicant eligible. The Second Officer's notes address the Applicant's explanation that he took a leave of absence from his security job to care for his children and help them with online schooling, and state that the Applicant did have a 50 percent reduction in his average weekly income compared to the previous year due to COVID-19.

[24] For CRB periods 15 to 20, from April 11, 2021 to July 3, 2021, the Second Officer found the Applicant ineligible. The Second Officer's notes of her January 27, 2025 phone call with the Applicant record his statements that he quit his job to attend a six-week carpentry course, and then "got a job right away in the field that he studied, July 2021". At the hearing in this proceeding, the Applicant stated that his carpentry training course ran for three weeks, from June 21, 2021 to July 9, 2021, not six weeks or months. However, the only evidence in the record regarding the duration of his carpentry training course are the Second Officer's notes, which state it was a six-week course. The Second Officer concluded that the Applicant quit his job voluntarily to pursue training for six weeks rather than for COVID-related reasons, and that the statutory requirement was therefore not met for periods 15 to 20. However, while periods 15 to

20 are six periods, each period comprises two weeks, totalling 12 weeks. Even accepting the Second Officer's finding that the Applicant's training course was six weeks, her finding that the Applicant was ineligible for 12 weeks due to a six-week training course is not internally coherent or rational (*Vavilov* at para 85).

[25] The Decision is unreasonable. The matter is referred to a different officer or reviewer for reconsideration.

[26] While there is also a typographical date error in the Decision letter, it did not impact the Second Officer's analysis or the Decision.

VII. Conclusion

[27] The application for judicial review is allowed in part. The Decision is set aside, and the matter is remitted to a different officer for reconsideration in accordance with these reasons.

[28] The style of cause is amended to substitute the Attorney General of Canada as the Respondent. The Applicant seeks costs. I exercise my discretion not to award costs given the nature of the evidence in this case.

JUDGMENT in T-605-25

THIS COURT'S JUDGMENT is that:

1. The application is allowed in part, the matter is remitted to a different officer for reconsideration in accordance with these reasons.
2. No costs are awarded.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-605-25

STYLE OF CAUSE: MULAT ABAYE v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 19, 2025

JUDGMENT AND REASONS: MANSON J.

DATED: NOVEMBER 28, 2025

APPEARANCES:

Mulat Abaye

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Maitland Shaheen

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT