

Federal Court



Cour fédérale

Date: 20251128

Docket: T-2010-22

Citation: 2025 FC 1902

Toronto, Ontario, November 28, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

FREDERICO RAMOS

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of two Canada Revenue Agency (“CRA”) second-review decisions regarding the Applicant’s eligibility for the Canada Recovery Benefit (“CRB”) and the Canada Worker Lockdown Benefit (“CWLB”).

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

II. Background

[3] The Applicant, who is self-represented, earns commission income. He applied for CRB for periods between September 27, 2020 and October 9, 2021, and for CWLB for periods between October 24, 2021 and March 12, 2022.

[4] On June 10, 2022, the CRA's first-review letters advised the Applicant that he was ineligible for both benefits because he had not earned at least \$5,000 of qualifying employment or net self-employment income in the relevant reference periods.

[5] The Applicant requested a second review on July 5, 2022, and a different officer (the "Second Officer") conducted the second review. On August 2, 2022, the Second Officer spoke with the Applicant by phone, explained that pension income is not qualifying income, asked the Applicant if he had other income to report, and suggested that the Applicant consult an accountant or financial advisor. The Applicant told the Second Officer that he had no additional income to report and that he would speak to an accountant and get back to the Second Officer.

[6] On August 18, 2022, the Second Officer made the second review decisions regarding the Applicant's eligibility for CRB (the "CRB Decision") and CWLB (the "CWLB Decision"). On September 1, 2022, the CRA issued a reassessment of the Applicant's 2019 tax return, increasing his net self-employment income to \$6,062. By letters dated September 2, 2022, the CRA advised the Applicant of the CRB Decision and the CWLB Decision.

III. The Decisions

[7] The CRB Decision set out that the Applicant remained ineligible for CRB because he had not earned at least \$5,000 of employment or net self-employment income in 2019, 2020, or in the 12 months preceding his first application.

[8] The CWLB Decision set out that the Applicant remained ineligible for CWLB, because he had not earned at least \$5,000 of employment or net self-employment income in 2020, 2021, or in the 12 months preceding his first application, and because his region was not designated as a COVID-19 lockdown region.

IV. Issues

[9] There are five issues in this proceeding:

1. Whether the Applicant asks the Court to consider materials that were not before the Second Officer and whether the Court should consider those materials.
2. Whether the CRA breached the duty of procedural fairness owed to the Applicant in making the CRB Decision.
3. Whether the CRA breached the duty of procedural fairness owed to the Applicant in making the CWLB Decision.
4. Whether the CRB Decision is reasonable.
5. Whether the CWLB Decision is reasonable.

[10] The Respondent also raises two preliminary matters:

1. Whether the CRA is the proper respondent under Rule 303 of the *Federal Courts Rules*, SOR/98-106 (the “Rules”).
2. Whether the Court should permit, pursuant to Rule 302 of the *Rules*, both the CRB Decision and the CWLB Decision to be challenged in this application.

V. Standard of Review

[11] 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*

[12] 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. *Multiple Decisions in One Application*

[13] The Court considers both the CRB Decision and the CWLB Decision in this application.

C. *Scope of the Record Before the Second Officer*

[14] Three dates are relevant to determining the scope of the record before the Second Officer:

- a) August 18, 2022: the date the Second Officer made the CRB Decision and the CWLB Decision;
- b) September 1, 2022: the date the Applicant's 2019 reassessment issued; and
- c) September 2, 2022: the date of the letters by which the CRA communicated the CRB Decision and the CWLB Decision to the Applicant.

[15] The Applicant submits his 2019 reassessment dated September 1, 2022 and documents providing general overviews of the CRB and CWLB eligibility criteria. The Second Officer made the Decisions on August 18, 2022, as recorded in the Second Officer's notes, which form part of their reasons (*Crook v Canada (Attorney General)*, 2022 FC 1670 at para 14). The Applicant's 2019 reassessment was not part of the record before the Second Officer.

[16] 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). The Applicant's additional materials, including his 2019 reassessment, go to the merits of his eligibility for CRB and CWLB and do not meet the necessary criteria to satisfy any of the enumerated exceptions to consider

them in assessing reasonableness. However, I address the Applicant's 2019 reassessment in assessing procedural fairness.

D. *Legislative and Procedural Framework*

[17] Section 3 of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [*CRB Act*], sets out the CRB eligibility criteria, including that an applicant must have earned at least \$5,000 of prescribed income in the specified reference periods, with any self-employment income calculated on a net basis. In particular:

- a) for a two-week period beginning in 2020, the \$5,000 of prescribed income must have been in 2019 or the 12-month period preceding the day on which the applicant applied for the CRB; and
- b) for a two-week period beginning in 2021, the \$5,000 of prescribed income must have been in 2019, 2020, or the 12-month period preceding the day on which the applicant applied for the CRB.

[18] Section 4 of the *Canada Worker Lockdown Benefit Act*, SC 2021, c 26, s 5 [*CWLB Act*], sets out the CWLB eligibility criteria, including that an applicant must have earned at least \$5,000 of prescribed income in the specified reference periods, with any self-employment income calculated on a net basis, and the applicant's loss of employment, inability to work, or a reduction of at least 50% in average weekly employment or self-employment income must have been due to a designated lockdown. In particular:

- a) for a week beginning in 2021, the \$5,000 of prescribed income must have been in 2020 or the 12-month period preceding the day on which the applicant applied for the CWLB; and
- b) for a week beginning in 2022, the \$5,000 of prescribed income must have been in 2020, 2021, or the 12-month period preceding the day on which the applicant applied for the CWLB.

[19] Each statute authorizes the Minister to require information to verify an applicant's benefit eligibility (*CRB Act*, s. 6; *CWLB Act*, s. 7).

E. *Procedural Fairness*

[20] Procedural fairness in these circumstances required that the Applicant receive notice of the case to meet and an opportunity to respond by providing information to substantiate his claim that he qualified for the CRB and CWLB benefits.

[21] The record shows that, during a telephone call on August 2, 2022, the Second Officer explained to the Applicant that pension amounts were not qualifying income for the purposes of these benefits, identified an apparent shortfall in his net self-employment income, and recommended that he consult an accountant or financial advisor. The Applicant said he would consult an accountant and get back to the Second Officer.

[22] The Second Officer made the CRB Decision and the CWLB Decision on August 18, 2022, 16 days after the August 2, 2022 telephone call. The record does not show that the Second

Officer set any deadline for the Applicant to provide further information or advised him that the second reviews would be concluded on August 18, 2022.

[23] The CRA issued the Applicant's 2019 reassessment on September 1, 2022. The timing of that reassessment indicates that the Applicant took steps within a reasonable period to have the CRA reassess his 2019 return. The Second Officer, after recommending that the Applicant seek professional advice, allowed an unduly short period of time for the Applicant to obtain that advice and to provide any resulting information, including the Applicant's 2019 reassessment, which was relevant to determining his eligibility for the CRB. In these circumstances, the process that led to the CRB Decision did not afford the Applicant a meaningful opportunity to respond and did not meet the duty of procedural fairness owed to him.

[24] The fact that the Applicant's 2019 reassessment was issued on September 1, 2022, after the CRB Decision, did not oblige the CRA to reopen the second review. Rather, the breach of procedural fairness arose from the Second Officer's decision to conclude the CRB second review on August 18, 2022, without allowing a reasonable period for the Applicant to take steps based on professional advice that the Second Officer had advised him to seek.

[25] The procedural fairness breach had no impact on the CWLB Decision because the Applicant's 2019 reassessment was not relevant to that decision.

F. *Reasonableness of the CRB Decision*

[26] Having found that the process leading to the CRB Decision was not procedurally fair, I need not address the reasonableness of the CRB Decision.

G. *Reasonableness of the CWLB Decision*

[27] The Second Officer reviewed whether the Applicant met the \$5,000 income requirement in the applicable periods to qualify for CWLB. The Second Officer's notes listed the documents the Applicant submitted to the CRA and recorded that those documents showed that the Applicant reported \$805 in net commission income in 2020 and no net commission income in 2021. The Second Officer found that the Applicant did not have net self-employment income that met the \$5,000 minimum income requirement in 2020, 2021, or in the 12 months before his first application on October 24, 2021.

[28] During the Second Officer's August 2, 2022 phone call with the Applicant, the Second Officer explained to the Applicant that pension income is not eligible income for CWLB and asked the Applicant whether he had other income that could be reported. The Applicant told the Second Officer that he had no additional income to report.

[29] The Second Officer also found that the Applicant's region was not designated as a COVID-19 lockdown region during some of the relevant periods. In any event, the Applicant's failure to meet the minimum income requirement independently made him ineligible for CWLB.

[30] The Second Officer's reasons are transparent and intelligible, and the CWLB Decision is justified in relation to the record that was before the Second Officer and the eligibility requirements set out by the *CWLB Act* (*Vavilov* at para 99).

VII. Conclusion

[31] The application for judicial review is granted in part, the matter is sent back only on the CRB Decision to be reconsidered by a different officer having regard to these reasons.

[32] The style of cause shall be amended to substitute the Attorney General of Canada as Respondent. The Applicant seeks costs. Given the split success and history of this matter I exercise my discretion and order no costs.

JUDGMENT in T-2010-22

THIS COURT'S JUDGMENT is that:

1. The application is allowed in part, the matter is sent back only on the CRB second review decision to be reconsidered by a different officer having regard to these reasons.
2. No costs are awarded.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2010-22

STYLE OF CAUSE: FREDERICO RAMOS 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:

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FOR THE APPLICANT
(ON HIS OWN BEHALF)

Melanie DaCosta

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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