Federal Court Cour fédérale

Date: 20251219

Docket: T-1769-24

Citation: 2025 FC 2014

2025 FC 2014 (CanLII)

Ottawa, Ontario, December 19, 2025

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

FUTIAN YAO

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision by an officer [the Officer] of the Canada Revenue Agency [the CRA] dated June 21, 2024 [the Decision], related to the Applicant's eligibility for the Canada Recovery Benefit [CRB] and the Canada Emergency Response Benefit [CERB].

[2] As explained in greater detail below, this application is dismissed, because the Applicant has not demonstrated that the Decision is unreasonable.

II. Background

[3] The Court does not have the benefit of much evidence providing background to the parties' dispute, as they have placed only a minimal evidentiary record before the Court. The Applicant's Record includes copies of two letters from the CRA to the Applicant dated June 21, 2024 (one related to the CRB and the other related to the CERB), communicating the Decision under review [the Decision Letters], as well as an affidavit affirmed by the Applicant on July 22, 2024, which: (a) states that she is qualified to apply for the CRB and CERB because her taxable income was over $5000 in 2019; and (b) attaches as an exhibit a copy of the Applicant's Notice of Reassessment issued by the CRA on June 11, 2020, for the 2019 taxation year [the 2019 NOR]. The Respondent's Record does not include any evidence. Neither party requested a certified tribunal record [CTR], i.e., a copy of the material relevant to the application that was in the possession of the CRA, under Rule 317 of the *Federal Courts Rules*, SOR/98-106 [the Rules]

[4] While most of the following background is not supported by evidence (a point to which I will return later in these Reasons), the Applicant's Memorandum of Fact and Law [the Applicant's Memorandum] asserts that:

A. on June 4, 2020, the Applicant received her Notice of Assessment for the 2019 taxation year [the 2019 NOA], which indicated that her total income was $3444;

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B. on June 11, 2020, the Applicant received the 2019 NOR, which indicated that her total income for the 2019 taxation year was $7444;

C. on March 14, 2023, the Applicant received a CERB and CRB eligibility verification letter from the CRA;

D. for the verification process, the Applicant asked her parents to submit required documents to the CRA on her behalf;

E. the Applicant's parents submitted to the CRA the 2019 NOA and a T1 Adjustment Request but did not include the 2019 NOR;

F. on June 30, 2023, the Applicant received a decision letter stating that she was not eligible for the CRB or the CERB, based on a finding that she did not earn at least $5000 (before taxes) in employment and/or self-employment income in 2019, or in the 12 months preceding the date of her first application;

G. on June 24, 2023, the Applicant requested a second review of her eligibility and, in support of that request, submitted the 2019 NOR; and

H. on June 21, 2024, the Applicant received the Decision of which she now seeks judicial review.

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III. Decision under Review

[5] At the hearing of this application, the Respondent noted that it is not abundantly clear from the self-represented Applicant's Notice of Application [the NOA] precisely which decision is under review. The NOA states the following:

> This is an application for judicial review in respect of
>
> Canada Revenue Agency
>
> June 21, 2024 Re: second review for CRB application reference number C0061544274-001-45
>
> The applicant makes application for: reverse the decision made by second review on June 21, 2024 and allow the applicant to apply the Canada Emergency Benefits.

[6] Based on the above reference to "CRB", the Respondent has treated this application for judicial review as related solely to the Officer's decision related to the CRB and prepared its Respondent's Memorandum of Fact and Law [the Respondent's Memorandum] accordingly. I note that both Decision Letters (i.e., both the letter related to the CRB and the letter related to the CERB) included in the Applicant's Record bear the above reference number C0061544274-001-45. The NOA's reference to "Canada Emergency Benefits" does not add clarity, as this name does not match precisely with either the CRB or the CERB.

[7] However, other elements of the Applicant's Record do clarify that it is the Applicant's intention to challenge the CRA's determination that she was not eligible for either the CRB or the CERB. As previously noted, both Decision Letters are included in the Applicant's Record, and the Applicant's Memorandum includes submissions in relation to both categories of benefits.

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[8] Rule 302 of the Rules provide that, unless the Court otherwise orders, an application for judicial review shall be limited to a single order in respect of which relief is sought. However, the Respondent has not invoked this Rule, and it is arguable that the Officer's determinations in relation to the Applicant's CRB and CERB eligibility, as communicated in the two Decision Letters bearing the same reference number, are sufficiently linked that is appropriate that they be challenged in a single application for judicial review (*China Mobile Communications Group Co, Ltd v Canada (Attorney General)*, 2023 FCA 202 at para 47).

[9] Moreover, based on oral submissions, I do not understand the Respondent to be taking the position that the Court should not address both the CRB and CERB determinations and, in my view, the written submissions in the Respondent's Memorandum, while framed in terms of only the CRB determination, are in substance responsive to both.

[10] These Reasons will therefore address both determinations, which (consistent with the framing in the Applicant's Memorandum) I will treat as a single Decision.

[11] The only portion of the record before the Court that provides insight as to the Officer's reasons for the Decision is the content of the Decision Letters. However, in the Respondent's Memorandum and at the hearing of this application, the Respondent raised the question whether the Decision Letters are properly before the Court, in that the Applicant included them in the Applicant's Record without attaching them as exhibits to her affidavit.

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[12] I note that Rule 309(2) provides that the contents of an applicant's record shall include, among other things, the order in respect of which the application is made and any reasons given in respect of that order (Rule 309(2)(c)) and each supporting affidavit and documentary exhibit (Rule 309(2)(d)). This Rule's separate identification of the decision under review and supporting affidavit evidence may imply that the former may be included in the applicant's record without being proven through an affidavit. However, it is not necessary for the Court to arrive at a conclusion on this point, as the Respondent confirmed in oral submissions that it is not challenging the authenticity of the Decision Letters and does not object to the Court relying on them as part of the record in this application.

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[13] The Decision Letters provide the following reasons for the Decision:

A. the Officer found the Applicant ineligible for the CRB because the Applicant did not earn at least $5,000 (before taxes) in employment or self-employment income in 2019, 2020, or in the 12 months preceding the date of the application; and

B. the Officer found the Applicant ineligible for the CERB because the Applicant did not earn at least $5,000 (before taxes) in employment or self-employment income in 2019, or in the 12 months preceding the date of the application.

IV. Issues and Standard of Review

[14] The Applicant's Memorandum asserts that the sole issue in this application is whether the CRA failed to consider the 2019 NOR. Expressed in the language of standard review, this issue raises the question whether the Decision is reasonable, within the meaning of the standard of

reasonableness as explained in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], because the CRA failed to grapple with key issues or central arguments raised by the Applicant (*Vavilov* at para 128).

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[15] At the hearing of this application, the Applicant noted that authorities on which the Respondent relies in support of the reasonableness of the Decision refer to the CRA having afforded the taxpayers in those cases opportunities to provide additional information or documentation, in support of their eligibility for benefits, before making an eligibility determination. However, the Respondent argued that, to the extent the Applicant was thereby intending to raise an issue as to the procedural fairness of the process leading to the Decision, the Applicant's Record did not raise any issue of this nature. The Respondent therefore takes the position that the Court should not entertain a procedural fairness argument raised at this juncture.

[16] I agree with the Respondent's position on this point. As the Respondent submits, if the Applicant had raised procedural fairness issue in its written materials, the Respondent would have had an opportunity to submit evidence to address that issue. As such, the sole substantive issue that the Court will address in this application is the reasonableness of the Decision.

[17] Finally, the Respondent's counsel raises as a procedural issue the position that the Applicant has incorrectly named the CRA as the Respondent and that the style of cause and should be amended to name the Attorney General of Canada [AGC] as the Respondent instead.

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V. Analysis

A. *Is the Decision reasonable?*

[18] The Applicant asserts a single straightforward argument. She notes that the Officer concluded that she did not earn at least $5000 (before taxes) of employment and/or net self-employment income in the periods relevant to her CRB and CERB eligibility (which periods include the 2019 taxation year), notwithstanding that her 2019 NOR reflects total income of $7444 (and taxable income of $7441). The Applicant therefore submits that the Officer did not consider the 2019 NOR and that this failure to consider relevant evidence renders the Decision unreasonable.

[19] However, as a result of the meagre record that the parties have placed before the Court, the required analysis of the reasonableness of the Decision is less straightforward. As previously noted, neither party requested a CTR under Rule 317, the Respondent has adduced no evidence and, other than providing copies of the Decision Letters themselves, the only evidence adduced by the Applicant is her affidavit: (a) stating that she is qualified to apply for the CRB and CERB because her taxable income was over $5000 in 2019; and (b) attaching as an exhibit a copy the 2019 NOR.

[20] With limited exceptions that do not apply in the case at hand, judicial review of an administrative decision is conducted based on the evidentiary record that was before the administrative decision-maker (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19-20; *Semler v Canada (Attorney General)*, 2024 FC 380 at para 8). In the case at hand, the Court has virtually no information as to the contents of that evidentiary record. As explained earlier in these Reasons, the

Applicant's Memorandum includes some minimal assertions as to documentation that was submitted to the CRA as part of their benefits verification process. However, the Applicant's affidavit provides no evidence to support those assertions. Indeed, while her affidavit introduces into evidence a copy of the 2019 NOR, and one might assume that the Officer had access to that document through the CRA's records, her affidavit does not actually state even that that document was submitted to the CRA.

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[21] Moreover, as the Respondent emphasizes, this Court has held that an applicant's tax filings (including a resulting notice of assessment) are insufficient to establish eligibility for benefits (*Grandmont v Canada (Attorney General)*, 2023 FC 1765 at para 36; *Ntuer v Canada (Attorney General)*, 2022 FC 1596 at para 27). While tax assessments can provide information relevant to the CRA's determination with respect to the taxpayer's benefits eligibility, they do not prove that the taxpayer actually earned the income that they self-reported in filing their income tax return or that such income was earned from a source that qualified for benefits eligibility (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 35).

[22] The Respondent also emphasizes that an applicant challenging an administrative decision on judicial review bears the burden of demonstrating that the decision is unreasonable (*Vavilov* at para 100). An applicant is expected to make their own case based on their own evidence, and the respondent is entitled to choose which evidence it will file and rely on in response to the application and may choose not to file any evidence at all (*Shoan v Canada (Attorney General)*, 2015 FC 1401 at para 18).

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[23] It was available to the Applicant not only to file affidavit evidence identifying the evidence and argument that she placed before the CRA in its review of her benefits eligibility. The Applicant also had the opportunity to request production of the CTR (pursuant to Rules 317 and 318) and to include the CTR in the Applicant's Record (under Rule 309(2)(e.1)), which would have similarly made available to the Court the evidence and argument that the Applicant had placed before the CRA. Inclusion of the CTR could also have identified for the Court the existence (or absence) of notes made by the Officer or other documents that, along with the Decision Letters, might inform an understanding of the reasons for the Decision. However, the Applicant did not avail herself of those opportunities. As in *Rock v Conseil des Innus de Pessamit*, 2022 FC 702 at paragraph 3, relying on the decision of the Federal Court of Appeal in *The Queen v Merchant (2000) Ltd*, 2001 FCA 301, the Applicant's failure to invoke Rule 317 detracts from her ability meet her burden in this application.

[24] Of course, the Respondent also had the opportunity to request and obtain the CTR (if the contents thereof were not already in its possession) and to include relevant material in the Respondent's Record (under Rule 310(2)(c.1)). Indeed, as the Respondent's counsel acknowledged at the hearing, there may be circumstances where a respondent failing to place such material before the Court would risk being unable to successfully demonstrate the justification necessary to support the reasonableness of an administrative decision. In *Lydford v Canada (Revenue Agency)*, 2025 FC 627 [*Lydford*], another case involving judicial review of a decision denying eligibility for CERB benefits, in which neither party had furnished the Court with a CTR, Justice Benoit Duchesne held as follows at paragraph 59:

> 59. The Respondent argued that he had no obligation to lead any evidence regarding the record before the decision-maker

> because it is the Applicant's onus to demonstrate unreasonableness. He argued that his election to not lead evidence should not be held against him and that the consequences of deficiencies in the evidentiary record should be suffered by the Applicant. While the burden of demonstrating unreasonableness lies with the applicant seeking judicial review, the Respondent's refusal or failure to lead evidence that permits the Court to review the Decision meaningfully when an applicant, as in this case, did not request a certified tribunal record and did not produce any evidence of the decision-maker's record is a failure to address the necessary justification that underpins administrative decisions and their review.

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[25] However, I agree with the Respondent's submission at the hearing that *Lydford* is distinguishable from the case at hand, in that the applicant in *Lydford* had introduced evidence as to the information and argument she had filed with the CRA in support of her eligibility for benefits (see *Lydford* at paras 17-19). As the CRA's correspondence with the applicant in *Lydford*, communicating the decision to deny her eligibility for benefits, did not grapple with the key issue and argument that the Applicant had raised, the Court found the decision to be unreasonable (para 56).

[26] In contrast, in the case at hand, the Applicant has not provided any evidence as to information and argument she submitted to the CRA that might have required the Respondent to adduce evidence of the Officer's reasoning in order to demonstrate that the Applicant's argument was not overlooked.

[27] Even if the Court were to assume that (given that the NOR is a document generated by the CRA) the NOR was indeed before the Officer, the nature of that particular document is such that the absence of reasons expressly analysing its impact does not undermine the reasonableness

of the Decision. As previously noted, the jurisprudence provides that a notice of assessment is not sufficient to establish a taxpayer's eligibility for benefits. Therefore, examining whether the decision is justified in the context of relevant factual and legal constraints that bear upon it (*Vavilov* at para 99), the Decision is reasonable.

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B. *Should the style of cause be amended to name the AGC as the Respondent?*

[28] Rule 303 of the Rules provides that, where there is no person directly affected by an application who can be named as a respondent, other than the tribunal in respect of which the application is brought, the application must name the AGC as the respondent. As the style of cause in this application names the CRA as the Respondent, the Respondent's counsel asks that the Court amend the style of cause to name the AGC instead.

[29] The Applicant has taken no position on this issue, which is purely a matter of procedure and does not affect the outcome of this application. I agree with the Respondent's position that the style of cause should be amended, and my Judgment will so provide.

VI. Conclusion and Costs

[30] As I have found that the Decision is reasonable, this application for judicial review will be dismissed.

[31] As the Respondent has prevailed in this application but has not claimed costs against the Applicant, my Judgment will award no costs.

JUDGMENT in T-1769-24

THIS COURT'S JUDGMENT is that

1. this application is dismissed, without any award of costs.
2. the style of cause is amended, as set out above, by replacing "Canada Revenue Agency" with "Attorney General of Canada" as the Respondent.

"Richard F. Southcott"
Judge

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1769-24
STYLE OF CAUSE:	FUTIAN YAO v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	DECEMBER 18, 2025
JUDGMENT AND REASONS:	SOUTHCOTT J.
DATED:	DECEMBER 19, 2025

APPEARANCES:

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Daniel Powell	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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