Federal Court Cour fédérale

Date: 20260112

Docket: T-2613-24

Citation: 2026 FC 38

Ottawa, Ontario, January 12, 2026

PRESENT: Mr. Justice Norris

BETWEEN:

NICOLETTE KNIGHT

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The applicant has applied for judicial review of three decisions (all dated September 18, 2024) determining, respectively, that she was ineligible for the Canada Emergency Response Benefit (CERB), the Canada Recovery Benefit (CRB), and the Canada Recovery Caregiving Benefit (CRCB). The Government of Canada had created these programs to alleviate the economic impact of the COVID-19 pandemic on employed or self-employed individuals. While separate statutory criteria governed eligibility for each of the programs, all three required that a

claimant had earned at least $5,000 (before taxes) of employment or net self-employment income in the applicable qualifying period.

[2] A Canada Revenue Agency (CRA) officer determined that the applicant was ineligible for the benefits because she did not meet this minimum income requirement. However, with respect to the CERB, the applicant would not be required to repay the amounts she had received because, while she had been determined to be ineligible on the basis that she did not have $5,000 in net self-employment income during the qualifying period, she would have been eligible had the assessment been based on gross self-employment income. This remission order only covered CERB overpayments; it does not apply to the other benefits the applicant received.

[3] The applicant (who is self-represented) contends that the ineligibility decisions are unreasonable because the officer failed to take into account relevant information concerning her income during the qualifying periods. The applicant also contends that the decisions were made in breach of the requirements of procedural fairness because she did not know the case she had to meet.

[4] As I will explain in the reasons that follow, I am unable to agree with the applicant in either respect. This application for judicial review must, therefore, be dismissed.

[5] Before considering the merits of the application for judicial review, there are three preliminary matters to address.

[6] First, in her application, the applicant named the Canada Revenue Agency as the respondent. The correct respondent is the Attorney General of Canada (rule 303(2) of the *Federal Courts Rules*, SOR/98-106 (*FCR*)). The style of cause will be amended accordingly.

[7] Second, the application for judicial review challenges three separate decisions. While not raised by the respondent, it should be noted that rule 302 of the *FCR* provides that, unless the Court orders otherwise, an application for judicial review shall be limited to a single order in respect of which relief is sought. I am satisfied that the three decisions are sufficiently connected that it 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; *Yao v Canada (Attorney General)*, 2025 FC 2014 at para 8). The decisions were all made by the same decision maker at the same time and on the basis of the same record. They all addressed the same question: Was the applicant financially eligible for the benefits in question? Finally, the applicant raises the same arguments and seeks the same relief in respect of all three decisions.

[8] Third, the respondent objects to the admissibility of parts of the Applicant's Record on two grounds. One is that documents marked as "Exhibit D" and "Exhibit E" (Applicant's Record, pages 6 to 11 and 44 [using PDF pagination]) are not referred to in the applicant's affidavit in support of the application (sworn October 31, 2024) and are not otherwise properly included in the Applicant's Record (see rule 309(2) of the *FCR*). The other is that, in any event, the documents marked as Exhibits B, C, D, and E (in some cases as a whole, in other cases in part) were not before the administrative decision maker and do not fall within any of the recognized exceptions to the general rule that an application for judicial review should be

determined on the basis of the record before the administrative decision maker (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 17-20; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13-28; *Sharma v Canada (Attorney General)*, 2018 FCA 48 at paras 7-9; *Andrews v Public Service Alliance of Canada*, 2022 FCA 159 at para 18). Apart from pages 9 to 11 of the Applicant's Record (which are the decisions under review), I agree with the respondent's objection in both respects. As a result, these documents will be disregarded. If it is of any comfort to the applicant, the information in these documents would not have made any difference to this application in any event.

[9] Turning to the merits of the application for judicial review, the applicable standards of review are not in dispute.

[10] The substance of the officer's decision is reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that 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). A decision that displays these qualities is entitled to deference from the reviewing court (*ibid.*). The reviewing court must read the decision maker's reasons "holistically and contextually" (*Vavilov*, at para 97) and in light of "the evidence before the decision maker, the submissions of the parties, publicly available policies or guidelines that informed the decision maker's work, and past decisions of the relevant administrative body" (*Vavilov*, at para 94). Absent exceptional circumstances, it is not the role of a reviewing court to interfere with an administrative decision maker's assessment

of the evidence or factual findings (*Vavilov*, at paras 125-126). To set aside a decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[11] To determine whether the requirements of procedural fairness were met, the reviewing court must determine whether the process leading to the decision was fair in all the circumstances (*Canadian Pacific Railway Co v Canada (Attorney General)*, 2018 FCA 69 at paras 54-56). Although, strictly speaking, no standard of review is being applied, this inquiry is functionally the same as applying a correctness standard (*Canadian Pacific Railway Co*, at para 54; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). The determinative questions in the present case are whether the applicant knew the case she had to meet in seeking to establish her financial eligibility for the benefits and whether she had a full and fair chance to meet that case (*Canadian Pacific Railway Co*, at para 56).

[12] The applicant first applied for the CERB on April 8, 2020, for the CRB on November 4, 2020, and for the CRCB on February 2, 2021. To be eligible for the CERB, the applicant had to have earned at least $5,000 (before taxes) of employment or net self-employment income in 2019 or in the 12 months prior to April 8, 2020. To be eligible for the CRB, the applicant had to have earned this amount of income in 2019, 2020 or in the 12 months prior to November 4, 2020. To be eligible for the CRCB, the applicant had to have earned this amount of income in 2019, 2020 or in the 12 months prior to February 2, 2021.

[13] Given when the applicant first applied for each of these benefits, her eligibility depended largely on her income in 2019 and 2020. As reported on her tax returns for these years, the applicant earned a combination of employment and self-employment income. The employment income came from limited-term contracts as an instructor with a Toronto theatre company. The self-employment income came from commissions the applicant earned as a real estate agent. For the 2019 taxation year, the applicant reported "T4 income" of $2,580 and net commission income of a loss of $6,587. For the 2020 taxation year, the applicant reported "T4 income" of $2,393 and net commission income of a loss of $4,694.

[14] The applicant's file was selected for a review of her eligibility for the benefits in January 2023. After the applicant was determined to be ineligible in February 2023, she requested a second review. The second review confirmed the applicant's ineligibility in August 2023. At the applicant's request, in September 2024, the CRA granted the applicant a further second review of her eligibility. Since the applicant was entitled to remission in relation to the CERB benefits she received and would not have to repay them in any event, the further second review focussed on the applicant's eligibility for the CRB and the CRCB. The decisions in issue are the result of this further second review.

[15] CRA officers were in contact with the applicant throughout the reviews and the applicant provided documentation for their consideration on several occasions. The applicant now submits that she did not understand that one of the reasons the CRA found her income fell short was her net self-employment income (which, as noted above, was reported as losses in 2019 and 2020). I am not persuaded that this is the case. Benefit eligibility requirements clearly state that, with

respect to self-employment income, the relevant amount is pre-tax *net* income. Furthermore, during the review process, CRA officers expressly asked the applicant about the net losses she had reported on her tax returns, putting her on notice that this was a concern. The applicant stated that, to the best of her knowledge, her tax returns had been prepared properly but if she or her accountant had made mistakes in calculating her net income, they were "innocent" ones. The applicant was clearly alerted to the significance of the net income (losses) she had reported for her eligibility for the benefits. For these reasons, I am satisfied that the applicant must have understood that the CRA was interested not only in confirming the income she claimed to have received but also that the write-offs she had claimed to arrive at net losses for her reported self-employment income would have affected her eligibility. In short, I am satisfied that the applicant knew the case she had to meet and had a fair opportunity to meet that case. The requirements of procedural fairness were met in the review process.

[16] With regard to the merits of the decision, reading the decision letters together with the officer's case notes and in light of the record, I am satisfied that the reasons for concluding that the applicant did not qualify for the benefits in question are transparent, intelligible and justified.

[17] Given the net losses reported by the applicant in relation to her self-employment income, that income could not factor into her eligibility for the benefits. In her dealings with the CRA, the applicant stood by the correctness of the amounts of self-employment income reported on her 2019 and 2020 tax returns. While she suggested during the review process that *if* mistakes had been made, they were innocent ones, the applicant never resiled from or corrected the reported

losses. It was, therefore, altogether reasonable for the officer conducting the further second review to take the reported net losses at face value.

[18] This left the applicant's employment income. I am satisfied that the officer took all of the available information into account in determining that the applicant's employment income did not meet the required threshold for the applicant to be eligible for the CRB, the CRCB, or, for that matter, the CERB. The officer reviewed all of the records of employment available to him. In fact, he expressly looked at the available information in the light that was most favourable to the applicant, assuming that some claimed income that was not reflected in records of employment had been earned in the relevant qualifying periods. Even after having done so, the officer found that the applicant's employment income still fell short. On the basis of the information before the officer, this was a reasonable conclusion.

[19] In sum, while this will no doubt be disappointing for the applicant, I can see no basis on which I could interfere with the decisions under review. The process followed by the decision maker was fair and the decisions are reasonable. As a result, this application for judicial review must be dismissed.

[20] The respondent did not seek costs and none will be awarded.

JUDGMENT IN T-2613-24

THIS COURT'S JUDGMENT is that

1. The style of cause is amended to name the Attorney General of Canada as the correct respondent.

2. The application for judicial review is dismissed without costs.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2613-24
STYLE OF CAUSE:	NICOLETTE KNIGHT v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MAY 5, 2025
JUDGMENT AND REASONS:	NORRIS J.
DATED:	JANUARY 12, 2026

APPEARANCES:

Nicolette Knight	ON THEIR OWN BEHALF
Saagar Uppal	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT