

Federal Court



Cour fédérale

Date: 20260127

Docket: T-1648-25

Citation: 2026 FC 117

Toronto, Ontario, January 27, 2026

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

MANUELA G. PALANCA

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Manuela G. Palanca [Applicant], seeks judicial review of a decision, of a second level officer [the Officer] of the Canada Revenue Agency [CRA] dated April 23, 2025 [the Decision], finding her ineligible for the Canada Emergency Response Benefit [CERB].

[2] The Applicant asks the Court to order a refund of the CERB for Period 2 (starting April 23, 2020) and Period 3 (up to June 6, 2020) as she believes she is entitled to these amounts, and they constitute savings she planned for her retirement.

[3] I appreciate the Applicant's genuine belief that she is entitled to the benefits she received; however, this application is dismissed as the Applicant has not shown that the Officer's Decision regarding her eligibility is unreasonable; rather, the Decision is justified on the facts and the law that constrained the Officer.

II. Legal Framework

[4] The enabling legislation of the CERB is the *Canada Emergency Response Benefit Act*. The aim of CERB is to provide financial support to employed and self-employed Canadians affected by COVID-19. The CERB payment is fixed at \$500 per week for a maximum of 28 weeks.

[5] Pursuant to section 4 of the *CERB Act*, the Minister must pay CERB to any person that makes an application pursuant to section 5(1) of the *CERB Act* and who meets the eligibility requirements found in section 6(1) of the *CERB Act*. One of those eligibility criteria, relates to an applicant's income.

[6] The relevant CERB income criteria for the purposes of this application are found at section 2, paragraph 6(1)(a) and subparagraph 6(1)(b)(i) of the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [*CERB Act*] which provide that:

Eligibility

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,

...

(i) subject to the regulations, income from employment or self-employment,

Admissibilité

6 (1) Est admissible à l'allocation de soutien du revenu le travailleur qui remplit les conditions suivantes :

a) il cesse d'exercer son emploi — ou d'exécuter un travail pour son compte — pour des raisons liées à la COVID-19 pendant au moins quatorze jours consécutifs compris dans la période de quatre semaines pour laquelle il demande l'allocation;

b) il ne reçoit pas, pour les jours consécutifs pendant lesquels il cesse d'exercer son emploi ou d'exécuter un travail pour son compte :

...

(i) sous réserve des règlements, de revenus provenant d'un emploi ou d'un travail qu'il exécute pour son compte,

[7] Section 1 of the *Income Support Payment (Excluded Nominal Income) Regulations*, SOR/2020-90 [*Excluded Nominal Income Regulations*], creates an exception for the application of subparagraph 6(1)(b)(i) of the *CERB Act*. It reads:

Nominal income

1 Any income received by a worker for employment or self-employment is excluded from the application of

Revenu nominal

1 Sont soustraits à l'application du sous-alinéa 6(1)b)(i) de la *Loi sur la prestation canadienne*

subparagraph 6(1)(b)(i) of the *Canada Emergency Response Benefit Act* if the total of such income received in respect of the consecutive days on which they have ceased working is \$1000 or less.

d'urgence les revenus du travailleur provenant d'un emploi ou d'un travail qu'il exécute pour son compte, à condition que le total de tels revenus soit de mille dollars ou moins pour les jours consécutifs pendant lesquels il cesse d'exercer son emploi ou d'exécuter un travail pour son compte.

[8] Together these provisions allow workers to receive some income from employment or self-employment, as long as the total of such income received does not exceed the \$1,000 income limit (*Severcan v Canada (Attorney General)*, 2025 FC 197 at para 11).

III. Facts

[9] The Applicant was a full-time property manager when she applied for the CERB and received benefits for three CERB periods beginning March 15, 2020. Weeks later she received notice that she was being temporarily laid-off effective April 22, 2020. The Applicant's temporary lay-off became permanent as of June 9, 2020.

[10] The Applicant acknowledges that at the time she applied for the CERB, she was not eligible, however she says she always intended to return a portion of the amounts she received. The full amount of the CERB was eventually clawed back by the CRA.

[11] A first level review decision determined that the Applicant was not eligible for the CERB since the officer was unable to ascertain the income actually earned by the Applicant and that she

stopped working for reasons related to COVID-19 as she had not provided sufficient information and had been unresponsive.

[12] The Applicant requested a second level review and provided further documents. Again, she was determined to be ineligible. The Decision provides the following explanation for each of the periods in issue:

- (i) Period 2 (April 12, 2020 to May 9, 2020) - the Applicant earned more than \$1,000 in employment income based on her amended record of employment [Amended ROE] which showed earnings in the period April 11, 2020 to April 24, 2020 in the amount of \$10,108.58 consisting of her gross pay, vacation pay and pay in lieu of notice; and
- (ii) Period 3 (May 10, 2020 to June 6, 2020) - the Applicant was deemed ineligible as the Applicant did not provide proof of the source and timing of \$1,619 in other employment income and \$20,056.71 in other income [collectively, the Other Income] noted in her 2020 tax return and therefore the Officer could not determine if the Applicant's income exceeded the \$1,000 income limit in the period.

IV. Issues and Standard of Review

[13] The Applicant has raised issues going to the merits of the Decision with the result that the applicable standard of review is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17 [*Vavilov*]). According to *Vavilov*, an applicant bears the burden of showing that the decision is unreasonable in that there is some fundamental flaw in its rationale or outcome, or that it lacks the hallmarks of justification, intelligibility and transparency (*Vavilov* at paras 95 and 99-101).

V. AnalysisA. *CERB Period 2*

[14] The Applicant submits that the Decision is unreasonable as she says she did not exceed the income limit given that her employment income for the pay period April 11, 2020 to April 24, 2020 was under the \$1,000 income limit for Period 2. She points to her bank statement which shows that on April 24, 2020, she received the net amount of \$834.09 in pay from her former employer which is under the income limit. This ignores the amounts shown in her Amended ROE upon which the Officer relied in coming to the conclusion that she had exceeded the income limit in Period 2.

[15] The Applicant submitted at the oral hearing that she remembers asking the Officer on their call whether receiving severance amounts disqualified her for the CERB, and the Officer said that it did not. There is no support for this exchange in the T1Case notes, nor did the Applicant provide this evidence in her supporting affidavit, which means the Court cannot consider it.

[16] The Applicant has therefore not shown a basis for finding that the Decision is unreasonable in respect of Period 2.

B. *CERB Period 3*

[17] The Applicant submits that her Other Income should have been found to be ineligible income for Period 3 given that it was a pay out of an employee profit sharing plan. The Applicant relies on a document that she asked to provide to the Court at the hearing. The document was obtained only after the Decision and according to the Applicant, provides an explanation from her former employer regarding the nature of the Other Income. I declined to accept the document as it was not properly before the Court and could not be used to challenge the merits of the Decision (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 20).

[18] Based on the record available to the Court, the Decision is justified: the Officer asked the Applicant what the source of the Other Income was and made a request for supporting documents. The Applicant did not provide a response to this request and unfortunately, her explanation simply comes too late.

VI. Conclusion

[19] As the Decision is reasonable in finding the Applicant ineligible for Periods 2 and 3, the application is dismissed.

[20] As neither party sought costs, none are awarded.

[21] At the request of the Respondent and with the Applicant's consent, the style of cause shall be amended to name the Attorney General of Canada as the proper respondent.

JUDGMENT in T-1648-25

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to name the Attorney General of Canada as the named Respondent;
2. The Application for judicial review is dismissed; and
3. There is no award of costs.

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1648-25

STYLE OF CAUSE: MANUELA G. PALANCA v ATTORNEY GENERAL
OF CANADA

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: JANUARY 20, 2026

JUDGMENT AND REASONS: WHYTE NOWAK J.

DATED: JANUARY 27, 2026

APPEARANCES:

Manuela G. Palanca

FOR THE APPLICANT
(ON HER OWN BEHALF)

Yetunde Akinyinka

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Edmonton, Alberta

FOR THE RESPONDENT