

Federal Court



Cour fédérale

Date: 20260310

Docket: T-1741-24

Citation: 2026 FC 327

Ottawa, Ontario, March 10, 2026

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

MATTHEW SIMSER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Matthew Simser, seeks judicial review of a decision made by the Canadian Revenue Agency (“CRA”), dated July 8, 2024, in which the CRA found Mr. Simser ineligible for the Canadian Recovery Benefit (“CRB”) under paragraph 3(1)(d) of the *Canadian Recovery Benefits Act*, SC 2020, c 12 (the “Act”).

[2] Mr. Simser submits that the CRA erred in assessing his business expenses and self-employment income.

[3] I am mindful of the fact that Mr. Simser is a self-represented litigant and I have kept in due regard the Canadian Judicial Council’s Statement of Principles on Self-represented Litigants and Accused Persons (2006), which the Supreme Court endorsed in *Pintea v Johns*, 2017 SCC 23 at paragraph 4. I commend Mr. Simser for his honest, respectful and highly able submissions before this Court.

[4] Though I am sympathetic to Mr. Simser’s position, I find that there is no legal basis for disturbing the CRA agent’s decision. For the reasons below, this application for judicial review is dismissed.

II. Background

A. *Statutory Framework*

[5] The CRB was a social benefit intended to alleviate the economic impact of the COVID-19 pandemic. Individuals who applied for the CRB in 2020 were required to have earned an income of at least \$5,000 from employment or self-employment in 2019 or in the 12-month period before the day on which the claiming individual made their application (the Act, s 3(1)(d)). Income from self-employment is defined as “revenue from the self-employment less expenses incurred to earn that revenue” in subsection 3(2) of the Act.

[6] Recipients of the CRB may be subject to compliance reviews by the CRA (the Act, s 26). If a recipient is found to have been ineligible for the CRB in a given payment period, they are required to repay the amount received during that period to the CRA (the Act, s 28).

[7] A CRB recipient may challenge an ineligibility finding by requesting a second review (the Act, s 31). If they disagree with the findings of the second review, a recipient may apply for judicial review of the second review decision.

B. *Facts*

[8] In 2019, Mr. Simser turned 20 years old and was newly self-employed as he began his filmography business.

[9] From September 27, 2020 to October 9, 2021, Mr. Simser applied for and received CRB for 27 two-week periods.

[10] The CRA later selected Mr. Simser for a compliance review. In a letter dated June 1, 2022, the CRA found Mr. Simser ineligible to receive the CRB as he did not earn at least \$5,000 in employment or net self-employment income in the relevant period (the Act, s 3(1)(d)). Mr. Simser requested a second review.

[11] On December 8, 2023, Mr. Simser was notified that he was again found ineligible for the CRB (“Initial Second Review Determination”). He sought judicial review of this decision.

[12] Mr. Simser’s judicial review of the Initial Second Review Determination was eventually discontinued. The parties agreed that the matter would be remitted to another CRA agent for redetermination.

[13] In April 2024, Mr. Simser made additional submissions to be considered in advance of the redetermination. These submissions included evidence of additional income and an affidavit stating that he intended to remove the Capital Cost Allowance (“CCA”) from his tax return for the year 2019 along with a draft amended tax form.

[14] On May 7, 2024, Mr. Simser received a phone call from a CRA agent. During the call, the agent asked Mr. Simser about the expenses that originally underpinned his claim to a CCA in 2019. Mr. Simser replied that the CCA was for equipment directly related to his filmography business and that he claimed the same type of expense as CCA in the following year.

[15] In a letter dated July 8, 2024, the CRA again determined that Mr. Simser was ineligible for the CRB because he did not meet the income threshold for the relevant period (“Final Second Review Determination”).

[16] The CRA agent’s notes specify that Mr. Simser’s income in 2019 was approximately \$4,395. This calculation included the gross income based on Mr. Simser’s submissions in April 2024. The calculation also deducted the original amount of Mr. Simser’s CCA. The CRA agent found that it was not appropriate to rely on the amended tax return for 2019 to determine Mr. Simser’s business expenses because the tax return was amended only after the initial eligibility

determination, and Mr. Simser had confirmed that the originally claimed CCA was related directly to his business.

III. Issue and Standard of Review

[17] The sole issue in this application is whether the Final Second Review Determination is reasonable.

[18] There is no dispute that the applicable standard of review for the merits of the decision is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paras 25, 86-87). I agree.

[19] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible, and justified (*Vavilov* at para 15). 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 (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[20] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing

evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

IV. Analysis

A. *The Role of Mr. Simser’s Affidavit Evidence*

[21] In his Application Record, Mr. Simser provided an affidavit and an exhibit showing his revised notice of assessment for the tax year of 2019. Citing *Canada (Attorney General) v Buchanan*, 2002 FCA 231 (“*Buchanan*”), Mr. Simser submits that it is open for this Court to conclude that he earned sufficient income to qualify for the CRB based on the affidavit he submitted.

[22] Although the Respondent originally disputed the admissibility of this evidence, this argument was abandoned at the hearing. Nevertheless, the Respondent maintained its submission that *Buchanan* does not allow this Court to draw its own conclusions based on Mr. Simser’s affidavit.

[23] In my view, Mr. Simser appropriately submitted an affidavit in support of his application under Rule 309(2) of the *Federal Court Rules*, SOR/98-106. I note that Mr. Simser’s affidavit discusses arguments and contains an exhibit that, in their substance, were before the CRA at the time of the Final Second Review Determination. Therefore, I agree that these submissions are admissible (*Polonyova v Canada (Attorney General)*, 2024 FC 54 at para 18).

[24] However, it is beyond this Court's mandate in this application to determine whether this evidence is conclusive of Mr. Simser's earnings. The Federal Court of Appeal in *Buchanan* reviewed a decision from the Minister of National Revenue that was appealed to the Tax Court of Canada and, as such, it referred to the Tax Court of Canada's ability to weigh and draw inferences on the basis of evidence that the judge accepted (*Buchanan* at para 3). Appealing to the Tax Court of Canada allows the Court to play a more active role in fact finding, as the Tax Court Judge did in her evaluation of testimony evidence in *Buchanan*. This is a different role than the one played by this Court when it reviews a decision from the CRA. In order to uphold Parliament's choice in delegating its authority to the CRA as a decision maker, this Court's role is to determine whether the CRA agent's decision is reasonable in light of the facts and law before them—not to determine eligibility itself (*Vavilov* at paras 85, 142). As such, it is not open for this Court to re-weigh the evidence that was before the CRA agent and draw its own conclusions (*Vavilov* at para 125).

[25] As Mr. Simser aptly highlighted during the hearing, the CRA agent considered his affidavit evidence. The CRA agent's notes acknowledge Mr. Simser's belief that he earned \$5,000 in 2019 and the 12 months prior to claiming CRB. Unfortunately, the CRA agent found that this affidavit evidence was insufficient to show that Mr. Simser met the income requirement. This finding aligns with the evidence provided to the CRA agent, which included supporting documentation for income below \$5,000, and accords with the Act and policies of determining CRB eligibility. While I understand Mr. Simser's belief to be genuine, I find no reviewable error in the CRA agent's conclusion regarding Mr. Simser's stated belief that he met the income threshold for CRB.

B. *The Final Second Review Determination is Reasonable*

[26] Mr. Simser submits that the CRA failed to consider his argument that his amended tax return for 2019 should be the basis on which to evaluate his business expenses to be consistent with the *Income Tax Act*, RSC 1985, c 1 (“*Income Tax Act*”). Mr. Simser also submits that the Final Second Review Determination contradicted the Act because it relied heavily on the CRA’s policy on Confirming Covid-19 Benefit Eligibility, leading to an unduly restrictive interpretation of self-employment income. Additionally, Mr. Simser maintains that subsection 3(2) of the Act does not specify the method of calculating net self-employment income, and consequently, the agent should have considered excluding the CCA expenditures.

[27] Relying on *Lavigne v Canada (Attorney General)*, 2023 FC 1182 (“*Lavigne*”), the Respondent submits that the requirements for the CRA to find Mr. Simser eligible for the CRB are outlined in the Act and cannot be replaced with provisions in the *Income Tax Act*. Regarding whether the CRA should have considered an alternative method for calculating self-employment income, the Respondent’s position is that the Act defined net self-employment income in subsection 3(2), and therefore the CRA reasonably subtracted Mr. Simser’s CCA from his gross self-employment income.

[28] Though I understand Mr. Simser’s submissions, I do not find that the issues raised justify this Court’s intervention.

[29] At the hearing, Mr. Simser relied on *Lydford v Canada (Revenue Agency)*, 2025 FC 627 (“*Lydford*”) to submit that the CRA agent was unresponsive and offered only conclusory

remarks. In *Lydford*, my colleague Justice Duchesne found that the CRA's decision regarding eligibility for the Canada Emergency Response Benefit was unreasonable because it failed to consider the rights and interests of the individual affected and was unresponsive to the taxpayer's main argument (at paras 57, 61). Of note, the decision in *Lydford* did not include a certified tribunal record and there was a complete absence of any record showing the CRA agent's reasoning (*Lydford* at paras 20, 62). That is not the case here, where the Court has benefited from a full certified tribunal record, including Mr. Simser's submissions to the CRA, notes analyzing Mr. Simser's submissions, and notes regarding the phone calls between the CRA agent and Mr. Simser. It is based on this record that I find the CRA agent duly considered Mr. Simser's arguments.

[30] I particularly note the CRA agent's phone call with Mr. Simser on May 7, 2024, which specifically addressed whether the amended 2019 tax return could reduce Mr. Simser's business expenses. During this call, Mr. Simser confirmed that the originally claimed CCA was directly linked to his filmography business. The CRA agent's notes also refer to Mr. Simser's letter from April 2024, in which he stated that he reduced the CCA in his 2019 tax return because it was optional. Based on this evidence, it was reasonable for the CRA agent to conclude that Mr. Simser's originally claimed CCA more accurately reflected his business expenses than Mr. Simser's revised 2019 tax assessment.

[31] This reasoning reflects this Court's jurisprudence that it is reasonable for the CRA not to consider an income tax assessment as conclusive proof of income or expenses because the Canadian tax system is based on self-assessment (*Lavigne* at para 43; *Aryan v Canada (Attorney*

General), 2022 FC 139 at paras 35-36; *Walker v Canada (Attorney General)*, 2022 FC 381 at para 36; *Goff v Canada (Attorney General)*, 2025 FC 1605 at para 32).

[32] While I am alive to Mr. Simser’s argument that the *Income Tax Act* allows taxpayers to defer their claimed CCA, the Act does not have this same provision when defining self-employment income (the Act, s 3(2)). The CRA agent’s reasons therefore reflect the law applicable to the decision.

[33] Although the CRA agent used the policy on Confirming Covid-19 Benefit Eligibility (the “Policy”), this policy does not contradict the broad wording of the Act. The Policy outlines potential sources of income and specifically notes that there may be other documents that provide proof of income or expenses. Accordingly, the agent examined the specific facts of Mr. Simser’s situation, including considering documents showing proof of income that fell outside the Policy. For example, prior to the Final Second Review Determination, the CRA agent made various phone calls discussing Mr. Simser’s revised submissions and requesting documents that could support Mr. Simser’s claim for eligibility for the CRB. The CRA agent’s notes show that the specifics of Mr. Simser’s submissions were duly considered in accordance with the Act.

[34] Further, the Final Second Review Determination reasonably relies on the definition of self-employment income in subsection 3(2) of the Act, instead of relying on the *Income Tax Act*, to determine Mr. Simser’s business expenses.

[35] At the hearing, Mr. Simser relied on *Judt v Canada (Attorney General)*, 2024 FC 2012 (“*Judt*”), to submit that the CRA agent unjustifiably applied a narrow interpretation of self-

employment income. In *Judt*, the Court determined that the CRA agent unreasonably relied on a narrow interpretation, instead of an equally plausible remedial interpretation, of the Act's provisions regarding income sources when excluding the taxpayer's income from a settlement agreement she had with her previous employer (at paras 33, 35).

[36] This case differs from the issues in *Judt* because subsection 3(2) of the Act does not allow for a wide variety of interpretations of self-employment income. Subsection 3(2) of the Act provides that income from self-employment refers to revenue less expenses incurred to earn that revenue. I agree with Justice Gascon in *Lavigne* that this is the formula used to determine the eligibility of a CRB applicant (at para 35). The Act's specific mention of this formula, as opposed to a reference to the *Income Tax Act*, supports that it is the proper method to determine the eligibility of applicants for the CRB. There is no other equally plausible, broad interpretation of net self-employment income under the Act.

[37] I understand Mr. Simser's argument that the terms "revenue" and "expenses" in subsection 3(2) of the Act could be applied flexibly depending on the business context. Nevertheless, I cannot agree with Mr. Simser's submission that, consequentially, the definitions in the *Income Tax Act* should prevail (*Friesen v Canada*, 1995 CanLII 62 at para 11 (SCC)). When a statute is unclear, principles of statutory interpretation require interpreters to look at the text, context, and purpose of the specific provision at issue (*Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 at para 21 (SCC); *Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 63). The interpretation of a provision does not depend on a separate act that was not explicitly incorporated into the provision at issue.

[38] In this case, the CRA agent reasonably applied the text of the statute, considering the ordinary meaning of subsection 3(2) of the Act to include Mr. Simser's originally claimed CCA, given that Mr. Simser had described these expenses as directly related to his filmography business (*Lavigne* at para 38).

[39] Mr. Simser also submitted at the hearing that his case differed from *Lavigne* because, even though the expenses were related to his filmography business, this business was in its infancy and was not his principal source of income in 2019. While I understand this to be true, the CRA agent's calculation of the Applicant's net self-employment income, regardless of its percentage of the Applicant's total income, must deduct the business expenses from the revenue claimed to have been earned by his filmography business in order to comply with the Act.

[40] Overall, the Final Second Review Determination accords with the legal framework for the CRB eligibility requirements and the evidence before the decision maker (*Vavilov* at para 90).

V. Conclusion

[41] Again, I emphasize the Court's appreciation for Mr. Simser's honesty and integrity before the Court. Nevertheless, I have found no legal basis on which to intervene in the CRA's decision. This application for judicial review is dismissed, without costs.

JUDGMENT in T-1741-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no award as to costs.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1741-24

STYLE OF CAUSE: MATTHEW SIMSER v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 4, 2026

JUDGMENT AND REASONS: AHMED J.

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