

Federal Court



Cour fédérale

Date: 20260302

Docket: T-976-24

Citation: 2026 FC 286

Ottawa, Ontario, March 2, 2026

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

MASOUMEH KAFSHGARSOUTEH

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Masoumeh Kafshgarsouteh, seeks judicial review of a decision, made by the Canada Revenue Agency (“CRA”), dated April 12, 2024, finding her ineligible for several periods when she received the Canada Recovery Benefit (“CRB”). Based on a second review of Ms. Kafshgarsouteh’s eligibility for CRB, the CRA determined that she failed to show that her average weekly income was reduced by 50% compared to the previous year due to Covid-19.

[2] Ms. Kafshgarsouteh submits that the CRA’s decision is unreasonable because it disregards some of her key submissions and documents.

[3] For the reasons that follow, I agree. This application for judicial review is therefore allowed.

[4] In these proceedings, I have been mindful of the fact that Ms. Kafshgarsouteh 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) (“CJC Statement”), which the Supreme Court endorsed in *Pintea v Johns*, 2017 SCC 23 at paragraph 4.

II. Background

[5] The CRB is a benefit that provided income support for individuals who were adversely affected by the Covid-19 pandemic.

[6] One of the eligibility requirements to receive the CRB is that, for reasons related to Covid-19, the beneficiary either (1) was not working or self-employed at the time of receiving the CRB, or (2) suffered a 50% drop in their average weekly income compared to the previous year (*Canada Recovery Benefits Act*, SC 2020, c 12, s 2, s 3(1)(f)).

[7] Between September 27, 2020, and October 9, 2021, Ms. Kafshgarsouteh applied for and received 27 instalments of the CRB. At that time, Ms. Kafshgarsouteh worked for an

immigration consulting company before becoming self-employed in her businesses for translation and immigration consulting.

[8] In a letter dated September 12, 2022, the CRA notified Ms. Kafshgarsouteh that she was subject to a review of her eligibility for the CRB, and she was invited to submit documents that supported her eligibility for the benefit.

[9] In a letter dated May 8, 2023, the CRA notified Ms. Kafshgarsouteh that she had been found ineligible for the CRB because she did not have a 50% reduction in her average weekly earnings compared to the previous year due to Covid-19. Ms. Kafshgarsouteh requested a second review.

[10] From May 23, 2023 to February 9, 2024, Ms. Kafshgarsouteh submitted additional documents. These documents included letters describing her work during the relevant period, letters from her childcare provider specifying the dates on which they were closed, periodic paychecks from her previous employer from December 2019 to January 2021, invoices and expenses for her immigration consulting and translating businesses from various periods, and bank statements from October 2019 to September 2021.

[11] Ms. Kafshgarsouteh also received several calls from the CRA agent reviewing her file. The CRA agent's notes regarding these phone calls state that Ms. Kafshgarsouteh operated two part time businesses out of her home that relied on international tourists and students, that she primarily received payment through cash, cheque or e-transfer for her businesses, and that she

maintained invoices and receipts for expenses but did not always deposit cash from her work to her bank account.

[12] During the phone calls with the CRA agent, Ms. Kafshgarsouteh stated that her husband had stayed at home during the Covid-19 pandemic to take care of their two young children. She further described that, while she was working from home, she also took care of their children. Specifically, she sometimes had to make them lunch or help them with school when their daycare or school was closed.

[13] In a letter dated April 12, 2024, the CRA determined that Ms. Kafshgarsouteh was ineligible for 22 of the 27 periods in which she received the CRB (the “Second Review”). The letter states that Ms. Kafshgarsouteh was not working for reasons unrelated to Covid-19 and that she did not face a 50% reduction in her average weekly income compared to the previous year.

[14] The CRA notes and report on Ms. Kafshgarsouteh’s Second Review state that there was insufficient documentation to include Ms. Kafshgarsouteh’s income from her previous employer. The notes further state that Ms. Kafshgarsouteh had reduced income because she was caring for her children, not because of Covid-19.

[15] This is the decision that is presently under review.

III. Preliminary Issues

A. *Style of Cause*

[16] Ms. Kafshgarsouteh names the CRA as the Respondent to this application. Pursuant to Rule 303 of the *Federal Court Rules*, SOR/98-106 (the “*Rules*”), the proper responding party is the Attorney General of Canada because the decision under review was made by the CRA on behalf of the Minister of Employment and Social Development. As such, the Style of Cause is amended effective immediately.

B. *Admissibility of New Evidence*

[17] The Respondent submits that certain documents included in Ms. Kafshgarsouteh’s record should not be admissible because they were not before the decision maker and do not fit under one of the prescribed categories of admissibility outlined in *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 (“*Access Copyright*”) at paragraph 20. These new documents include the Chronology of Material Facts, Questions Prepared for the Applicant’s Cross-Examination, the Applicant’s Supplemental Affidavit dated June 6, 2025, and various correspondences between the parties and invoices pertaining to the cross-examination of the Respondent’s deponent.

[18] In my view, these documents do not pertain to the underlying decision, but instead they relate to the procedural issues Ms. Kafshgarsouteh raises with this application. I find that these documents are admissible because they are relevant to this application and admitting these

documents is not inconsistent with the different roles of the reviewing court and the administrative decision maker (*Access Copyright* at para 20).

C. *The Admissibility of the Cross-Examination and Affidavit of the Respondent's Deponent*

[19] Ms. Kafshgarsouteh submits that the Respondent's deponent was not qualified to make the submitted affidavit because she did not write the internal notes or make the underlying decision on Ms. Kafshgarsouteh's eligibility. She further alleges that the Respondent's counsel obstructed Ms. Kafshgarsouteh's cross-examination of the deponent.

[20] While Ms. Kafshgarsouteh frames these issues as matters of procedural fairness, I find that they pertain to preliminary issues in this proceeding rather than any procedural issue in the underlying decision. Accordingly, I agree with the Respondent that the proper way to address these allegations would have been through a motion under Rule 96(2) of the *Rules*. In the interest of judicial economy, however, I find it useful to address these matters in this judgement (*Rules*, s 3).

[21] With regard to the Respondent's deponent, I agree with the Respondent that this affidavit is admissible. Rule 81(1) of the *Rules* provides that affidavits must be confined to the facts within the deponent's personal knowledge. In her affidavit and in cross-examination, the Respondent's deponent affirmed that she has reviewed the internal notes and is familiar with Ms. Kafshgarsouteh's case. This is sufficient to have personal knowledge of the facts within the affidavit.

[22] Although the affidavit makes some assertions based on personal belief, which is generally impermissible in this context, such statements may be admitted where they are necessary and reliable (*Lumonics Research Ltd v Gould*, 1983 CanLII 5000 (FCA) at 369; *Éthier v Canada (RCMP Commissioner) (CA)*, 1993 CanLII 2935 (FCA)). In this instance, the stated belief of the deponent relates to the date on which the underlying decision maker left their position at the CRA and do not impact my analysis of the underlying decision. I find there are sufficient indicia of reliability and necessity to admit this stated belief.

[23] I also find that the Respondent has complied with this Court's rules during Ms. Kafshgarsouteh's cross-examination of its deponent. The Respondent agreed to a time and date for the cross-examination that was reasonable for both parties. The Respondent's counsel periodically made objections to Ms. Kafshgarsouteh's questions and stated the reason for the objection in accordance with Rule 95(1) of the *Rules*. The parties agreed to allow the cross-examination to continue past the originally scheduled period, and I find that this allowed Ms. Kafshgarsouteh to have a full opportunity to cross-examine the Respondent's deponent.

IV. Issue and Standard of Review

[24] The sole issue in this application is whether the Second Review is reasonable.

[25] The parties submit that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paras 16–17, 23–25). I agree.

[26] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13, 75, 85). 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 decision that is reasonable as a whole 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).

[27] 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).

V. Analysis

[28] I first note that the Respondent concedes to remitting the decision to another CRA agent for redetermination. I agree with this outcome, and I provide the following reasons for the benefit of this redetermination process (*Lin v Canada (Attorney General)*, 2025 FC 1663 (“*Lin*”) at para 29).

A. *Failure to Grapple with the Applicant's Key Submission*

[29] Ms. Kafshgarsouteh submits that the Second Review ignored key evidence when concluding that the decline in her income during the relevant period was due to childcare, instead of the pandemic's effect on the demand for immigration, translation and teaching services.

[30] Despite conceding that the Second Review should be remitted, the Respondent maintains that the CRA reasonably determined that Ms. Kafshgarsouteh's income decline was unrelated to Covid-19 because she took care of her children when their daycare was closed.

[31] I find the Second Review's reasons unintelligible.

[32] The Second Review failed to grapple with key arguments that Ms. Kafshgarsouteh's income loss was due to Covid-19. Both letters that Ms. Kafshgarsouteh wrote to the CRA explained the impact of Covid-19 on her translation and immigration consulting businesses due to border closures and decreasing international permit applications. At the hearing, Ms. Kafshgarsouteh further explained that she had informed the CRA agent that the closed borders during the pandemic greatly reduced tourism and allowed international students to avoid obtaining permits through pursuing online studies. Ms. Kafshgarsouteh also noted that the pandemic affected her translation business because it restricted new comers to Canada, who were her main clientele. The CRA agent summarized Ms. Kafshgarsouteh's statements in regard to Covid-19's impact on her business and confirmed that she continued to look for work throughout the pandemic.

[33] Inexplicably, however, the Second Review simply notes that Ms. Kafshgarsouteh “had the added responsibility of taking care of her two young children” to conclude that her income was reduced due to reasons unrelated to Covid-19. This statement disregards the larger context of the Covid-19 pandemic on Ms. Kafshgarsouteh and her family, which was communicated to the CRA agent in several phone calls and letters. Although Ms. Kafshgarsouteh readily admits that she had to intervene on occasion to help settle her young children or make them lunch, she emphasises that her husband was the one who applied for benefits to take care of the children and that she “was trying hard to promote [her] immigration services while managing the kids at the same time.” At the hearing, Ms. Kafshgarsouteh submitted again that it was her husband who tried to keep their children focused on their online schooling during the pandemic while she spent long hours at her computer studying or looking for clients.

[34] This Court previously held that a decision on CRB eligibility was unreasonable because it disregarded evidence showing that the applicant had stopped working because Covid-19 had impacted his field of work as to prevent him from starting new employment (*Fentum v Canada (Attorney General)*, 2023 FC 857 at para 20). Given the record before the CRA agent, I find that the Second Review similarly fails to address information on the record that directly contradicted its conclusion regarding the reason for Ms. Kafshgarsouteh’s reduced income. The Second Review is devoid of any reasons explaining why it chose to favour the explanation that Ms. Kafshgarsouteh had reduced income due to childcare, instead of the impact of Covid-19 on her businesses. The Second Review’s conclusion appears to apply a punitive effect on parents cooperating in taking care of their children during a chaotic time.

B. *Failure to Consider All Documents Purporting to Show the Applicant's Income*

[35] Ms. Kafshgarsouteh further submits that the CRA unreasonably disregarded her income that was recorded in cash. In addition, Ms. Kafshgarsouteh maintains that the CRA's process applied a harsher standard of proof for her situation compared to others in similar situations. She also notes that, while she was submitting documents for the Second Review, she was undergoing a major health procedure.

[36] The Respondent concedes that the CRA's analysis regarding Ms. Kafshgarsouteh's eligibility for the CRB in Periods 7 and 8, from December 20, 2020 to January 16, 2021, was unreasonable because it failed to explain its findings of insufficient documentation in light of the bank statements and invoices for this period. Nevertheless, the Respondent submits that the CRA reasonably excluded the alleged cash income because Ms. Kafshgarsouteh did not provide sufficient employer information, paychecks, or bank account records and instead relied on her tax returns.

[37] I agree that the CRA's finding with regard to the Periods 7 and 8 was unreasonable. This Court has previously held that disregarding documents listed in the CRA's policy on Confirming Covid-19 Benefits Eligibility, such as bank statements, purporting to show the beneficiary's income without explanation is unreasonable (*Yousof v Canada (Attorney General)*, 2023 FC 349 at paras 25, 35).

[38] For a similar reason, I find that the CRA also unreasonably disregarded the cheques from Ms. Kafshgarsouteh's employer from 2020 to 2021. Ms. Kafshgarsouteh provided cheques with

dates, her name, the employer's name, and a description of the payment as a "paycheck" that range from December 2019 to January 2021. She also provided bank statements from October 1, 2019 to September 30, 2021. Many of the amounts specified on the cheques from Ms. Kafshgarsouteh's previous employer correspond to the amounts deposited in her bank account around the same time.

[39] The CRA agent notes regarding Ms. Kafshgarsouteh's paychecks simply state that Ms. Kafshgarsouteh "lacks sufficient documentation" to prove her income from her previous employer in the given periods. In light of the evidence on the CRA's record and its own policy specifying documents that may support Ms. Kafshgarsouteh's decline in income, I find that the Second Review lacks transparency in its decision to exclude Ms. Kafshgarsouteh's paychecks from her income calculation.

[40] Given these conclusions, I find that the Second Review lacks the hallmarks of reasonableness: justification, transparency, and intelligibility (*Vavilov* at para 99).

[41] Despite this finding, I do not share Ms. Kafshgarsouteh's view that she was treated harshly. There is no evidence on the record to show that the CRA treated Ms. Kafshgarsouteh discriminatorily or was selective in its enforcement. In this regard, I note that the CRA agent allowed Ms. Kafshgarsouteh additional time to submit documents when she had a medical procedure in late January 2024, and, as Ms. Kafshgarsouteh affirmed at the hearing, a CRA agent spoke multiple times with her on the phone to clarify the process.

VI. Remedy

[42] Ms. Kafshgarsouteh submits that the matter should not be referred back to the CRA for redetermination due to the procedural fairness issues in the decision.

[43] I have reviewed and addressed the procedural issues raised by Ms. Kafshgarsouteh and I have found no error.

[44] I further note that, where a decision cannot be upheld on a judicial review, the usual remedy is to remit the decision to the decision maker for redetermination, with the only exception being when remitting the decision would serve no useful purpose (*Vavilov* at para 141). As my colleague Justice Aylen found in *Lin* at paragraphs 29 to 32, the eligibility of an applicant for CRB is not inevitable based on an unreasonable assessment of one of the required criteria. I find this reasoning also applies to the case before me, where the outcome of Ms. Kafshgarsouteh's CRB eligibility is not a foregone conclusion.

VII. Conclusion

[45] I therefore find that the Second Review is unreasonable. It fails to address the relevant facts and key submissions from Ms. Kafshgarsouteh that are central to the decision (*Vavilov* at paras 99-100). This application is allowed, without costs.

JUDGMENT in T-796-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is allowed.
2. The matter is referred back for redetermination by a different agent.
3. The Style of Cause is amended to reflect the Attorney General of Canada as the correct Respondent, effective immediately.
4. There is no order as to costs.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-976-24

STYLE OF CAUSE: MASOUMEH KAFSHGARSOUTEH v CANADA
REVENUE AGENCY

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 5, 2026

JUDGMENT AND REASONS: AHMED J.

DATED: MARCH 2, 2026

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FOR THE APPLICANT

Mira Amin

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