

Federal Court



Cour fédérale

Date: 20260310

Docket: T-2746-23

Citation: 2026 FC 323

Toronto, Ontario, March 10, 2026

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

ANISHA ANDU

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This decision addresses an application for judicial review of a decision by a Canada Revenue Agency [CRA] officer [the Officer] dated November 29, 2023 [the Decision], relating to the Applicant's eligibility for the Canada Recovery Benefit [the CRB]. The Officer found the Applicant ineligible for the CRB, because she did not meet the following criteria: (a) she was not

working for reasons unrelated to COVID-19 [COVID]; and (b) she did not have a 50% reduction in her average weekly income due to COVID compared to the previous year.

[2] As explained in further detail below, this application for judicial review is dismissed, because the Decision is reasonable.

II. **Background**

[3] The CRB payments that are the subject of the Decision under review formed part of the Canadian government's suite of benefits provided in response to the COVID pandemic. During the pandemic, the CRA released CRB payments on an attestation basis. However, an applicant's eligibility for these benefits was subject to potential verification by the CRA.

[4] The Applicant was employed at Canbe Foods Incorporated [Canbe] at the onset of the pandemic. Following adverse effects upon its business, Canbe laid the Applicant off effective September 9, 2020. The Applicant became a full-time student from November 8, 2020, to March 13, 2021.

[5] In March 2021, following the lifting of lockdown measures, the Applicant secured full-time employment at Nava Wilson LLP [Nava]. However, she subsequently was exposed to COVID and, as a consequence, lost work and experienced a reduction in her income.

[6] Later in 2021, the Applicant was employed at Blue Chip Leasing Corporation [Blue Chip], but she lost her full-time position due to a substantial reduction in the company's profitability attributable to the ongoing impact of COVID.

[7] The Applicant applied for, and received, the CRB for periods in 2020 and 2021. The CRA subsequently elected to verify the Applicant's eligibility for the CRB.

[8] After having been notified that her eligibility was being reviewed and asked to submit documentation to support her eligibility, the Applicant provided the CRA with written submissions dated October 30, 2022. By letter dated March 20, 2023, an officer who conducted a first review of the Applicant's eligibility conveyed their decision that the Applicant was ineligible for the CRB because, for the periods between November 8, 2022, and March 13, 2021; May 23, 2021 to June 5, 2021; and September 26, 2021 to October 9, 2021, the Applicant did not experience the required 50% income reduction.

[9] The Applicant requested a second review of her eligibility and provided further written submissions and supporting documentation to the CRA, including following an October 25, 2023 telephone discussion with the Applicant. Following receipt of those submissions, the Officer made the Decision that is the subject of this application for judicial review.

III. **Decision under Review**

[10] The Officer conveyed the Decision by letter dated November 29, 2023. This letter communicated that, for what the Officer described as periods 4 to 12 (the consecutive two-week periods between November 8, 2020 and March 13, 2021) and period 18 (from May 23, 2021 to June 5, 2021), the Applicant was ineligible for the CRB because she did not meet the following criteria: (a) she was not working for reasons unrelated to COVID; and (b) she did not have a 50% reduction in her average weekly income due to COVID compared to the previous year.

[11] The record before the Court also includes notes made by the Officer in the course of reviewing the Applicant's eligibility. These notes, and in particular a Second Review Report dated November 23, 2023 [the Second Review Report], assist in informing an understanding of the reasons for the Decision and demonstrate that: (a) for periods 4 to 11 (the consecutive two-week periods between November 8, 2020, and February 27, 2021), the Officer found the Applicant ineligible because she was unemployed for reasons unrelated to COVID; and (b) for period 12 (February 28, 2021, to March 13, 2021) and period 18 (May 23, 2021, to June 5, 2021), the Applicant did not have a 50% reduction in her average weekly income compared to the previous year.

IV. Legislative Framework

[12] Relevant provisions of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [CRB Act] are as follows:

Eligibility

3 (1) A person is eligible for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021 if

...

(f) during the two-week period, for reasons related to COVID-19, other than for reasons

Admissibilité

3 (1) Est admissible à la prestation canadienne de relance économique, à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021, la personne qui remplit les conditions suivantes

:

...

f) au cours de la période de deux semaines et pour des raisons liées à la COVID-19, à l'exclusion des raisons

referred to in subparagraph 17(1)(f)(i) and (ii), they were not employed or self-employed or they had a reduction of at least 50% or, if a lower percentage is fixed by regulation, that percentage, in their average weekly employment income or self-employment income for the two-week period relative to

prévues aux sous-alinéas 17(1)f)(i) et (ii), soit elle n'a pas exercé d'emploi — ou exécuté un travail pour son compte —, soit elle a subi une réduction d'au moins cinquante pour cent — ou, si un pourcentage moins élevé est fixé par règlement, ce pourcentage — de tous ses revenus hebdomadaires moyens d'emploi ou de travail à son compte pour la période de deux semaines par rapport à :

(i) in the case of an application made under section 4 in respect of a two-week period beginning in 2020, their total average weekly employment income and self-employment income for 2019 or in the 12-month period preceding the day on which they make the application, and

(i) tous ses revenus hebdomadaires moyens d'emploi ou de travail à son compte pour l'année 2019 ou au cours des douze mois précédant la date à laquelle elle présente une demande, dans le cas où la demande présentée en vertu de l'article 4 vise une période de deux semaines qui débute en 2020,

(ii) in the case of an application made under section 4 in respect of a two-week period

(ii) tous ses revenus hebdomadaires moyens d'emploi ou de travail à son compte pour l'année 2019 ou

beginning in 2021, their total average weekly employment income and self-employment income for 2019 or for 2020 or in the 12-month period preceding the day on which they make the application;

2020 ou au cours des douze mois précédant la date à laquelle elle présente une demande, dans le cas où la demande présentée en vertu de l'article 4 vise une période de deux semaines qui débute en 2021;

V. Issues

[13] Based on the parties' written and oral submissions, I would articulate the issues for the Court's determination as follows:

- A. What is the standard of review applicable to the Court's review of the Decision?
- B. Does the Applicant's Record include new evidence that was not before the Officer?
- C. Employing the applicable standard of review, does the Decision demonstrate reviewable error?

VI. Analysis

- A. *What is the standard of review applicable to the Court's review of the Decision?*

[14] The Applicant submits that the Court's review of the Decision should be conducted on the standard of correctness, as the requested review involves a legal question, being the interpretation of the relevant provisions of the CRB Act.

[15] The Respondent submits that the reasonableness standard of review applies to the merits of the Decision. The Respondent relies on the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], explaining at paragraph 23 the presumption that the standard of review of administrative decision-making is reasonableness, as well as other authority that has applied that standard in reviewing the merits of eligibility decisions related to COVID benefits (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 16).

[16] I agree with the Respondent's position. The analysis in which the Court is required to engage, in addressing the parties' positions in this matter, focuses principally upon the Officer's treatment of the evidence before them, rather than upon an interpretation of the CRB Act. Moreover, even where a question of statutory interpretation is involved, the Court should not depart from the reasonableness standard other than in a narrow range of disputes, such as involving constitutional questions, general questions of law of central importance to the legal system as a whole, and questions regarding the jurisdictional boundaries between two or more administrative bodies (*Vavilov* at para 53). None of those circumstances apply in the case at hand.

[17] As such, I will apply the reasonableness standard of review in this application.

B. *Does the Applicant's Record include new evidence that was not before the Officer?*

[18] The Respondent argues that, in considering the reasonableness of the Decision, the Court should disregard the following documentation exhibited to the Affidavit of the Applicant sworn on January 26, 2024 [the Applicant's Affidavit], and included in her Application Record in support of this application for judicial review: (a) a letter from Canbe dated November 24, 2023; and (b) 2021 T4 slips provided by Nava, Blue Chip, and another employer named International Language [together, the Challenged Evidence].

[19] In support of its position in this application, the Respondent has filed an affidavit affirmed by the Officer on February 22, 2024 [the Officer's Affidavit], in which (among other things) the Officer states that they have reviewed the Applicant's Affidavit and that the Challenged Evidence was not available to them when conducting the review that led to the Decision. Relying on that evidence, the Respondent notes that, in reviewing the reasonableness of an administrative decision (and subject to exceptions that do not apply in the matter at hand), a court will typically consider only the evidence that was before the administrative decision-maker when the decision was made (*Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19-20).

[20] I accept the legal principle on which the Respondent relies, and the Applicant has not advanced any submissions in response to the Respondent's assertion that the Challenged Evidence was not before the Officer. As such, I accept the Respondent's position, and the Court will not take the Challenged Evidence into account in reviewing the reasonableness of the Decision.

C. *Employing the applicable standard of review, does the Decision demonstrate reviewable error?*

[21] As previously observed, the Second Review Report demonstrates that the basis for the Officer's determination that the Applicant is ineligible for the CRB was based on different analyses for different periods:

- A. for periods 4 to 11 (the consecutive two-week periods between November 8, 2020, and February 27, 2021), the Officer found the Applicant ineligible because she was unemployed for reasons unrelated to COVID; and
- B. for period 12 (February 28, 2021, to March 13, 2021) and period 18 (May 23, 2021, to June 5, 2021), the Applicant did not have a 50% reduction in her average weekly income compared to the previous year.

[22] For each of periods 12 and 18, the Second Review Report sets out the Officer's calculations, leading to the conclusion that the Applicant did not experience a 50% reduction in her average weekly income compared to either 2019 or 2020. At the hearing of this application, the Respondent identified evidence in the record before the Officer (a Record of Employment [ROE] issued by Navas and several Statements of Earnings and Deductions issued by Navas) supporting the Officer's calculations.

[23] At the hearing, the Applicant did not challenge these calculations. Rather, she confirmed that she did experience an income reduction during periods 12 and 18 and explained that her

arguments challenging the reasonableness of the Decision are not directed at the Officer's calculations or analysis with respect to those periods but rather relate to periods 4 to 11.

[24] I note that the Applicant's Memorandum of Fact and Law argues that CRB eligibility can result from either the required level of income reduction or being unemployed. I agree with this argument, in that (in broad strokes and subject to other criteria) paragraph 3(1)(f) of the CRB Act provides for eligibility where, as a result of COVID, an individual either: (a) was not employed or self-employed; or (b) had at least a 50% income reduction of at least 50%.

[25] I understand this argument to be directed at the Officer's analysis related to periods 4 to 11. However, for the sake of good order and noting the Applicant's submission that during periods 12 and 18 she drew reduced pay while staying home from work at her employer's request, I note that I find no error in the Officer treating the Applicant as employed during these periods and assessing her eligibility based on the reduction in her income. The ROE issued by Navas reflects that the Applicant remained employed at the relevant times.

[26] In conclusion on periods 12 and 18, I agree with the Respondent's position that the Officer's analysis and conclusion with respect to those periods is intelligible, supported by the evidence, and reasonable.

[27] With respect to periods 4 to 11, and again conscious of the Applicant's argument as explained above, I note that I do not read the Decision as based on either an income reduction analysis or a conclusion that the Applicant failed to demonstrate that she was unemployed.

Rather, the Officer concluded that the Applicant's unemployment was not attributable to COVID.

[28] In challenging that conclusion, the Applicant argues that the Officer unreasonably took her status as a student into account in assessing her CRB eligibility. She argues that such status does not disqualify an applicant from CRB eligibility. She also relies on the ROE issued by Canbe that identifies that she was laid off as of September 20, 2020, due to COVID.

[29] The Second Review Report, notes that during the October 25, 2023 call with the Applicant, the Officer referenced the Applicant having been a full-time student, as well as the ROE issued by Canbe, and explained the need for the Applicant to demonstrate how COVID affected Canbe and her employment with that company. The Second Review Report further reflects that the Applicant subsequently submitted to the CRA a letter, a copy of which is attached to the Officer's Affidavit, advising that she had requested that Canbe provide a letter attesting to the circumstances surrounding her unemployment and, in the meantime, was attaching screenshots of social media announcements made by Canbe that provided details about the shutdown of their stores [the Screenshots].

[30] The Applicant did not provide a letter from Canbe prior to the issuance of the Decision on November 29, 2023. However, the Second Review Report reflects that the Officer took the Screenshots into account in arriving at the Decision. Consistent with the Officer's notes in the Second Review Report, those screenshots evidence that: (a) on March 18, 2020, Canbe announced the closure of one of its locations, with the other location remaining open only for

take-out; and (b) on November 24, 2020, Canbe announced that both its locations would be open daily during particular hours (9 hours per day for one location and 12 hours per days for the other). The Second Review Report states the Officer's resulting conclusion that Canbe was open during periods 4 to 11.

[31] As such, I agree with the Respondent's characterization of the Decision related to periods 4 to 11 as based on the evidence that Canbe's stores were open as of November 24, 2020, and the fact that the Applicant was by then a full-time student. The Officer did not treat the Applicant's student status as disqualifying but rather took that fact into account, in combination with the evidence that her employer had reopened both its locations, in concluding that her subsequent unemployment was not attributable to COVID. This is an intelligible conclusion based on the evidence available to the Officer and withstands reasonableness review.

VII. **Conclusion and Costs**

[32] As I have considered the Applicant's arguments and find that they do not undermine the reasonableness of the Decision, this application for judicial review must be dismissed.

[33] Notwithstanding its success in responding to this application, the Respondent does not claim costs against the Applicant. As such, my Judgment will award no costs.

JUDGMENT IN T-2746-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. No costs are awarded.

"Richard F. Southcott"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2746-23

STYLE OF CAUSE: ANISHA ANDU v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 9, 2026

JUDGMENT AND REASONS: SOUTHCOTT J.

DATED: MARCH 10, 2026

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