

Federal Court



Cour fédérale

**Date: 20260303**

**Docket: 26-T-76**

**Ottawa, Ontario, March 3, 2026**

**PRESENT: The Honourable Madam Justice Ngo**

**BETWEEN:**

**AVNEET PAL SINGH CHAWLA**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**ORDER**

**UPON** motion by the Applicant, made in writing pursuant to Rule 369 of the *Federal Courts Rules*, SOR/98-106, requesting an extension of time to serve and file a Notice of Application of the Canada Revenue Agency's second review refusal decision dated October 24, 2025 [Decision]. The Respondent opposes the motion.

**UPON CONSIDERING** the motion records and submissions filed by the parties.

**UPON CONSIDERING** the factors for granting an extension of time are well established in the case law, where the Applicant must demonstrate the following: i) whether the Applicant had a continuing intention to pursue the application; ii) whether there is some potential

to the application; iii) whether the Respondent has been prejudiced from the delay; and, iv) whether the applicant has a reasonable explanation for the delay. These four questions guide the Court in determining whether granting an extension of time is in the interests of justice. The importance of each question depends on the circumstances of each case. Not all of the four questions need to be resolved in the moving party's favour (*Canada (Attorney General) v Larkman*, 2012 FCA 204 at para 62 [*Larkman*]; see also *Canada (AG) v Hennelly* (1999), 244 NR 399 (Fed CA) [*Hennelly*]).

**UPON FINDING** that the motion must be dismissed for the following reasons:

1. The Applicant seeks to commence an application for judicial review [Application] challenging a decision by the Canada Revenue Agency [CRA] on a second review, finding him ineligible for the Canada Emergency Response Benefit, the Canada Recovery Benefit and Canada Recovery Sickness Benefit [collectively, Benefits]. As a result, the Applicant was required to repay the amounts he received under the Benefits to the CRA .
2. The CRA communicated the refusal with respect to all Benefits to the Applicant in the same letter dated October 24, 2025. For ease of reference, I refer to the term “Decision” in the singular to the letter that was provided to the Applicant relating to all three Benefits.
3. An application for judicial review must be commenced within 30 days from the issuance of the Decision, which in the Applicant's case, is October 24, 2025 (s 18.1(2) of the *Federal Courts Act*, RSC 1985, c F-7 [*Federal Courts Act*]).
4. The Decision was uploaded to the Applicant's account, through the CRA's “MyAccount” online service [MyAccount]. The Applicant states that at the time the Decision was sent to

his MyAccount, he was in India and could not access his MyAccount. He returned to Canada on November 28, 2025, and accessed the Decision on December 1, 2025.

5. The Applicant called the CRA twice on December 1, 2025, to enquire about the Decision. The Applicant served this motion on the Respondent on February 11, 2026, and filed the motion with the Court on February 12, 2026.
6. I will now address the factors identified in *Larkman* and *Hennelly*.

A. Continuing intention to pursue application

7. The Respondent identified in its responding motion record that the Applicant was informed twice on December 1, 2025, by CRA agents, that the next steps were to apply for judicial review if he was not satisfied with the Decision.
8. Indeed, while the Applicant did not provide a specific date, he confirmed in his affidavit that he contacted CRA multiple times by telephone to explain that he was outside Canada and unable to access his MyAccount. He states these agents advised him that they were unable to provide further assistance and that judicial review before the Federal Court was his only remaining option.
9. On December 1 and 2, 2025, the Applicant contacted his Member of Parliament, and the office advised him that court proceedings were required.
10. An applicant must be able to demonstrate a continuing intention to pursue an application for judicial review in the time that has elapsed since the prescribed 30-day period. Logically, this means that the pursuit of measures other than judicial review does not demonstrate an

intention to pursue judicial review (*Clinique Gascon Inc. v Canada*, 2023 FC 1757 at paras 19-20 [*Clinique Gascon*]).

11. The Applicant explained a continuing intent for some of the period of time. However, after December 1, 2025, the choice to seek alternative intervention through his Member of Parliament does not reflect a continuing intention to file an application for judicial review.
12. There is no other evidence or information explaining the steps that the Applicant sought to take to start an application for judicial review. The first factor is therefore not met.

#### B. Potential merit of application

13. An applicant need not establish that their application will necessarily succeed, only that it has some potential merit (*Sharma v Canada (Attorney General)*, 2025 CanLII 94655 at para 19 [*Sharma*], citing *Larkman* at para 61).
14. The Applicant has not provided a draft or proposed application for judicial review with his motion. In his motion record, the Applicant has stated that he has “an arguable case on the merits, as he was fully eligible for the COVID-19 benefits received and provided CRA with all requested supporting documentation” and he “believes that the CRA failed to properly consider the evidence submitted”.
15. However, there is no other information to identify how the Decision was unreasonable or procedurally unfair. Written statements in affidavits without any further evidence are also insufficient to demonstrate potential merit (*Sharma* at para 20, citing *Abikan v Canada (Citizenship and Immigration)*, 2023 FC 149 (CanLII) at paras 23-24).

16. The Court is therefore unable to assess the potential merit of the proposed Application. The second factor is not met.

#### C. Prejudice to the Respondent

17. The Applicant submits that there is no prejudice to the Respondent if the Court were to allow an extension of time. On the other hand, the Respondent argues that an opposing party is entitled to expect an extension of time will not be granted when there is a lack of a reasonable explanation for not complying with the time limit to make an application for judicial review, amounting to prejudice (citing *Collins v Canada (Attorney General)*, 2010 FC 949 at para 6). I agree with the Respondent's submissions.

18. It has been repeatedly acknowledged that undertaking judicial review of administrative tribunal decisions within the relatively short time limits prescribed by the *Federal Courts Act* reflects the public interest with respect to the finality of administrative decisions (*Clinique Gascon* at para 36, citing *Canada v Berhad*, 2005 FCA 267 at para 60, leave to appeal to the SCC refused, 31166 (May 25, 2006); *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41 at para 24). The third factor is not met.

#### D. Reasonable explanation for the delay

19. An applicant's justification for a delay must be justified for the entire period in question (*Sharma* at para 23, citing *Singh v Canada (Citizenship and Immigration)*, 2023 FC 380 at para 36). Unexplained periods of delay, even short ones, may justify the refusal of an extension of time (*Sharma* at para 23 citing *Larkman* at para 86).

20. The Applicant has explained the delay in accessing the October 24, 2025, Decision to being outside the country and not being able to access this MyAccount until November 28, 2025. However, it was up to the Applicant to provide a reasonable explanation to justify the delay for the entire period. There is no explanation to justify the delay between December 1, 2025, and February 11, 2026. The Applicant's motion record is silent in this regard. As such, the fourth factor is not met.

E. The interests of justice

21. The Applicant submits that it is in the interests of justice to allow the extension of time.

22. As Justice Gascon recently summarized, while the interests of justice remain the paramount consideration in granting an extension of time, they do not exist in a vacuum. The interests of justice do not absolve applicants from their duty to satisfy their burden of proof in motions for extensions of time (*Clinique Gascon* at para 37).

23. In this case, in the absence of any evidence provided to establish the factors as described above, it is not in the interests of justice to grant an extension of time.

**THIS COURT ORDERS that:**

1. The motion seeking an extension of time is dismissed, without costs.

"Phuong T.V. Ngo"  
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Judge