

Federal Court



Cour fédérale

Date: 20260310

Docket: T-1681-25

Citation: 2026 FC 326

Ottawa, Ontario, March 10, 2026

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

CHERYL L ROSENBERGER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Cheryl L. Rosenberger, seeks judicial review of a decision made by the Canadian Revenue Agency (“CRA”), dated April 17, 2025, in which the CRA found Ms. Rosenberger ineligible for the Canada Recovery Benefits (“CRB”) and the Canada Emergency Response Benefit (“CERB”). The CRA agent determined that Ms. Rosenberger had failed to demonstrate that she met the \$5,000 requirement in employment or net self-employment income.

[2] Ms. Rosenberger submits that the CRA agent did not provide coherent reasons for their determination and failed to provide a procedurally fair process.

[3] Though I am sympathetic to Ms. Rosenberger’s situation, I have not found any grounds that warrant this Court’s intervention.

[4] In arriving at this conclusion, I am mindful of the fact that Ms. Rosenberger 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.

II. Background

A. *Statutory Framework*

[5] The CRB is a benefit program introduced by the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 (“CRB Act”). The CERB is a benefit program introduced by the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 (“CERB Act”).

[6] The CRB was created to provide income support for any two-week period beginning on September 27, 2020 and ending on October 23, 2021, to eligible employed and self-employed individuals who were adversely affected by the COVID-19 pandemic (*Kleiman v Canada (Attorney General)*, 2022 FC 762 at para 2). The CERB provided income support for any four-

week period beginning on March 15, 2020, and ending on October 3, 2020 (CERB Act, s 5(1); *Ganesh v Canada (Attorney General)*, 2023 FC 1405 at para 35).

[7] The benefits require recipients to have earned at least \$5,000 from approved income sources in 2019, 2020, or in the 12 months prior to the application date (CERB Act, s 2; CRB Act, s 3(1)(e)).

[8] Recipients of the CRB and CERB may be subject to compliance reviews by the CRA (CRB Act, s 26; CERB Act, s 10). If a recipient is found to have been ineligible for the CRB or CERB in a given payment period, they are required to repay the amount received during that period to the CRA (CRB Act, s 28; CERB Act, s 12(1)).

[9] If a CRB or CERB recipient disagrees with the findings of a final review of their eligibility, the recipient may apply for judicial review of the final decision.

B. *Facts*

[10] Ms. Rosenberger applied for and received CRB for 27 two-week periods between September 27, 2020 and October 9, 2021. She also applied for and received seven instalments of CERB between March 15, 2020 and September 26, 2020.

[11] At the time of applying and throughout the year prior, Ms. Rosenberger describes her source of income as deriving from odd jobs, including gardening, janitorial services, and transportation.

[12] In a letter dated February 3, 2023, the CRA notified Ms. Rosenberger that her eligibility for the CRB and the CERB was under review and requested documents proving her income in the relevant timeframe.

[13] Ms. Rosenberger proceeded to have four reviews of her eligibility for the CRB and the CERB. All of these reviews determined that she had not met the income threshold required to receive the CRB or the CERB.

[14] The only decision under review is contained in the letter dated April 17, 2025, and the accompanying CRA agent notes (the “Final Determination”).

[15] In advance of this decision, Ms. Rosenberger had submitted bank statements for various months in 2019 and 2020. These bank statements originally showed the account holder as only Richard Rosenberger, Ms. Rosenberger’s husband. Ms. Rosenberger stated that this is a joint account and provided a letter from the bank stating that both she and her husband have been long-term clients of the bank.

[16] Ms. Rosenberger also included text messages, an invoice, cheques, and a signed statement from two friends who had paid Ms. Rosenberger for gardening and cleaning services in 2019 and 2020.

[17] With regard to Ms. Rosenberger’s alleged transportation work, Ms. Rosenberger stated that she was paid to drive her husband and run errands while her husband completed renovation

work for Grant Park, with whom her husband had a long-standing business relationship. She provided highlighted bank statements and a signed letter from Grant Park, purporting to show which payments were to her, instead of her husband. She also provided invoices from herself and from her husband for work completed for Grant Park in 2019.

[18] Prior to the Final Determination, Ms. Rosenberger also had several phone calls with the CRA agent to discuss her documents and potential issues in proving her income for 2019 and 2020.

[19] Considering all of these documents and phone calls with Ms. Rosenberger, the Final Determination found sufficient documentation to support the income Ms. Rosenberger had earned from her cleaning and gardening services. This totalled \$2,967.50. Still, the Final Determination did not accept that Ms. Rosenberger had earned sufficient income from her transportation services to reach the \$5,000 requirement to qualify for the CRB and the CERB.

[20] The CRA agent notes show that the agent questioned Ms. Rosenberger's delay in mentioning or providing documents to support her transportation work for Grant Park until after she had submitted several documents and received a secondary review of her eligibility for the benefits on November 20, 2023. The CRA agent acknowledged Ms. Rosenberger's explanation that she struggled to get information relating to her transportation work because she lost access to her email account, was in the midst of moving, and was not aware that this documentation was needed. Despite these explanations, the CRA agent determined that this work should have been

mentioned in the initial reviews because it purported to represent approximately half of the income necessary to be eligible for the CRB and the CERB.

[21] The CRA agent also found that the bank statements provided could not confirm the amount paid to Ms. Rosenberger for her transportation services. Although Ms. Rosenberger's name was shown as an account holder in the newest bank statements and she had explained that her name was not on the account previously because she did not conduct her banking online, the CRA agent noted that the contemporaneous bank statements show payments to a bank account with only her husband as the account holder. The CRA agent further questioned the inconsistency in the timing and quantity of payments allegedly paid to Ms. Rosenberger that were shown in the bank statements.

[22] The CRA agent further could not confirm the quantity paid to Ms. Rosenberger through the signed letter from Grant Park, dated March 15, 2025, because it was not contemporaneous.

[23] Likewise, the CRA agent analyzed the alleged proceeds from the sale of a smart car, which Ms. Rosenberger's husband had advertised online. Ms. Rosenberger had explained that this car was to be sold in order to pay Ms. Rosenberger and her husband for unpaid transportation work for Grant Park. This was specified in an invoice from Ms. Rosenberger's husband. The agent noted that the invoice provided by Ms. Rosenberger's husband shows that the proceeds from the car were to be paid to her husband and that the balance would be paid to Ms. Rosenberger, but it does not show the correct date or any details regarding the work completed.

[24] Additionally, the CRA agent could not determine the expenses or net self-employment income for Ms. Rosenberger. Ms. Rosenberger had explained that her husband claimed all of her expenses and that sometimes Grant Park would pay for the expenses along with the transportation work. This did not provide sufficient information for the CRA agent to calculate Ms. Rosenberger's net self-employment income or determine whether it reached the required threshold to be eligible for the CRB or the CERB.

III. Preliminary Issues

A. *Admissibility of the Applicant's New Documents*

[25] The Respondent challenges the admissibility of several documents Ms. Rosenberger submitted in her Application Record 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 documents include an email exchange between Ms. Rosenberger and the Respondent about whether it was possible for the Applicant to conduct a cross-examination, a version of the Certified Tribunal Record (“CTR”) with annotations by the Applicant, and bank statements from the Applicant showing both her and her husband as joint account holders.

[26] I agree in part with the Respondent. The bank statements and annotated CTR that Ms. Rosenberger provided attempt to resolve the conflict that was before the CRA agent when they

made their decision. As such, these documents would allow this Court to intrude on the decision-maker's role in coming to their determination. Because this Court's role is not to re-weigh or re-assess the facts of the applicant's eligibility, these documents cannot be accepted. (*Access Copyright* at para 19; *Piatka-Wasty v Canada (Attorney General)*, 2022 FC 1185 at paras 22-23).

[27] Although the correspondence between the Applicant and the Respondent does not interfere with the role of a reviewing court, I find that this correspondence is not relevant to Ms. Rosenberger's application. The correspondence relates to Ms. Rosenberger's request to conduct a cross-examination on the CTR, which was not available for the Applicant to conduct in these proceedings.

IV. Issues and Standards of Review

[28] This application for judicial review raises the issues of whether the Final Determination is reasonable and was rendered in a manner that breached procedural fairness.

[29] The applicable standard of review for the merits is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("Vavilov")).

[30] The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 37-56 ("Canadian Pacific Railway Company"); *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*,

2020 FCA 196 at para 35). I find that this conclusion accords with the Supreme Court of Canada's decision in *Vavilov* (at paras 16-17).

[31] 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).

[32] 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).

[33] Correctness, by contrast, is a non-deferential standard of review. The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and*

Immigration), 1999 CanLII 699 (SCC), [1999] 2 SCR 817 (at paras 21-28; see also *Canadian Pacific Railway Company* at para 54).

V. Analysis

A. *The Final Determination is Reasonable*

[34] Ms. Rosenberger submits that she did not receive any reasons for her ineligibility. She further maintains that it was inconsistent for the CRA agent to accept the signed letters from her friends as proof of her gardening and cleaning services but to refuse Grant Park's letter regarding her transportation services. It is also Ms. Rosenberger's position that the CRA agent should have accepted her amended income tax statements because they were previously accepted by the CRA.

[35] The Respondent's position is that Ms. Rosenberger's submissions amount to a request to reweigh the evidence before the decision maker. Accordingly, the Respondent submits that the CRA agent reviewed and considered all of Ms. Rosenberger's documents and provided reasons for finding insufficient support of income above \$5,000 for 2019, 2020 or the 12 months before she applied for the CRB or the CERB. Further the Respondent submits that Ms. Rosenberger's amended tax returns were not submitted before the previous reviews of her eligibility for the CRB and the CERB and, in any case, are not conclusive proof of income.

[36] Though I understand Ms. Rosenberger's submissions, I do not find that she has raised a reviewable error.

[37] It is a well-established principle that the CRA notes are part of the decision (*Teymourian v Canada (Attorney General)*, 2025 FC 216 (“*Teymourian*”) at para 22). These notes show that the CRA agent considered all of the Applicant’s documents and explanations.

[38] In particular, the CRA agent’s notes show close attention to each of the documents purporting to support her income from transportation services. The CRA agent determined that the bank account statements showing Ms. Rosenberger’s name as a joint account holder were not contemporaneous. Additionally, the CRA agent specified that these bank statements lacked key information about her alleged income, including which portion of earnings was directed to Ms. Rosenberger, which transfers included expenses, or when Ms. Rosenberger’s husband paid for the expenses related to the transportation services.

[39] The CRA agent further analyzed the online advertisement for a car allegedly given to Ms. Rosenberger and her husband as payment for their transportation work for Grant Park. The CRA agent did not accept this as proof of Ms. Rosenberger’s work because there was no contemporaneous description of the work Ms. Rosenberger completed for Grant Park related to this car sale.

[40] The CRA agent also found that the signed letter from Grant Park could not support her alleged income from transportation services because it was dated March 15, 2025. Unlike the letters from Ms. Rosenberger’s friends, the letter from Grant Park was not accompanied by contemporaneous texts, emails or communication showing that Ms. Rosenberger was paid for work completed for Grant Park in 2019 or 2020. Given these reasons, I find that the Final Determination had all the hallmarks of reasonableness regarding its finding that there was

insufficient documentation to support the alleged income from Ms. Rosenberger's transportation services (*Vavilov* at para 99).

[41] Regarding Ms. Rosenberger's amended income tax assessments, I am sympathetic to the confusion that often accompanies the acceptance of an amended tax assessment by the CRA but a refusal to treat it as evidence in a review of an applicant's eligibility for the CRB or the CERB. Nevertheless, I must emphasize that Canada's tax system is based on self assessments.

Accordingly, there is no error in the CRA agent's determination that the amended tax assessment fails to provide conclusive proof of Ms. Rosenberger's income. Indeed, this Court has consistently determined that tax assessments are not conclusive evidence of eligibility for the CRB or the CERB (*Lavigne v Canada (Attorney General)*, 2023 FC 1182 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).

[42] Ultimately, I find that the CRA agent reasonably concluded that there was insufficient documentation to support that Ms. Rosenberger earned the requisite income to be eligible for the CRB or the CERB.

B. *The Final Determination was Conducted in a Procedurally Fair Manner*

[43] Ms. Rosenberger submits that the procedural fairness of the Final Determination cannot be adequately assessed because the CTR lacks transcripts from her phone calls with the CRA agent which took place prior to the Final Determination. In her view, the inclusion of the CRA

agent's notes regarding these phone calls without the corresponding transcripts prevents her from showing the procedural issues with the decision.

[44] The Respondent submits that there are no transcripts for the phone calls between Ms. Rosenberger and the CRA agent, and that the CTR has provided the best evidence available regarding the process leading to the Final Determination.

[45] In my view, while transcripts may well have been preferable had they been available, the CRA agent's notes are sufficient to conduct a review of the procedural fairness of the Final Determination. This reflects the above-noted principle that the CRA notes are included as part of the reasons given for the Final Determination (*Teymourian* at para 22).

[46] These notes show that the CRA agent contacted Ms. Rosenberger multiple times and communicated the issues with her documents. The notes specifically show that the CRA agent informed Ms. Rosenberger of the concerns with her alleged income from transportation services. Indeed, since the start of Ms. Rosenberger's review process, the CRA has spoken with her about her documents eight times and allowed her to submit new documents 14 times. Given the number of calls and the CRA notes showing that the agent discussed the relevant issues with Ms. Rosenberger, I find that Ms. Rosenberger knew the case to be met when she submitted additional documents throughout the reviewing process. Despite many opportunities for Ms. Rosenberger to submit new documents, these documents were insufficient to relieve the CRA agent of their concerns. I find no procedural error in the CRA's assessment (*Canadian Pacific Railway Company* at para 56, cited in *Mahmoud v Canada (Attorney General)*, 2023 FC 1066 at para 35).

VI. Conclusion

[47] For the reasons above, I find that the Final Determination reflects the evidence before the decision maker along with the legal framework for eligibility for the CRB and the CERB (*Vavilov* at para 90). The CRA's process leading to this determination upheld the principles of fairness through its clear and consistent communication with Ms. Rosenberger. Accordingly, I have found no reviewable error in the Final Determination.

JUDGMENT in T-1681-25

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-1681-25

STYLE OF CAUSE: CHERYL L ROSENBERGER v ATTORNEY GENERAL
OF CANADA

JUDGMENT IN WRITING

JUDGMENT AND REASONS: AHMED J.

DATED: MARCH 10, 2026

WRITTEN SUBMISSIONS BY:

Cheryl L Rosenberger
(On her own behalf)

FOR THE APPLICANT

Katherine Matthews

FOR THE RESPONDENT

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FOR THE RESPONDENT