Federal Court Cour fédérale

**Date: 20260505**

**Docket: T-553-24**

**Citation: 2026 FC 600**



**Ottawa, Ontario, May 5, 2026**

**PRESENT: The Honourable Madam Justice Ngo**

**BETWEEN:**

**MEAGHAN GRENVILLE**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

# JUDGMENT AND REASONS

## I. Overview

[1] The Applicant, Meaghan Grenville [Applicant], seeks judicial review of a decision by the Canada Employment Insurance Commission [Commission] denying her request to write off overpayment of her employment insurance debt [Decision]. The Commission concluded that it did not have authority to write off her debt because the overpayment arose from the Applicant's misrepresentations in the application forms that she submitted for maternity and parental benefits.

[2] I am mindful that the Applicant is self-represented and I commend her for her able, courteous, and thoughtful submissions to the Court both in her written materials and at the hearing.

[3] I understand the frustration that the Applicant expressed at the hearing. The Applicant has indicated that she tried to be proactive in this case. She described the circumstances surrounding the calculation errors she made on her application form resulting in overpayment of benefits and the Commission's subsequent reimbursement request. However, from a legal perspective, I cannot grant this judicial review, for the reasons that follow.



## II. Background and Decision Under Review

[4] In April 2020, the Applicant applied for maternity and parental benefits [Benefits]. In her application form, she selected "standard parental benefits". Under the *Employment Insurance Act*, SC 1996, c 23 [EI Act], she could receive up to 35 weeks of benefits (EI Act at subparagraph 12(3)(b)(i)), or up to 40 weeks if the Benefits were shared with a partner (EI Act at para 23(4.1)(a)).

[5] It is not contested that the Applicant elected to share Benefits with her spouse, that she requested 35 weeks for herself, and that at the same time, her spouse applied for 15 weeks of Benefits. As such, the couple claimed a total of 50 weeks of Benefits, which is more than the allowed maximum of 40 weeks under the EI Act. This resulted in an overpayment of Benefits to the Applicant.

[6] On March 12, 2021, the Applicant contacted Service Canada to advise them that she had become aware of overpayments of Benefits. At this point in time, she had received 34 weeks of

Benefits payments. The Applicant asked that the payments be stopped and inquired about repayment. The Applicant states she was advised by the agent that the error occurred due to the request in her form: she had claimed too many weeks. The Applicant further states that the agent informed her that the system that notes parental file linkage (to prevent calculation errors resulting in overpayment) did not occur in her case. During the call, the Applicant was advised that if an overpayment is applied, a notice of debt would be sent to her in the mail. She was also advised that a work order would be opened to further look into this. She then received no other communications until June 2023.



[7] On June 3, 2023, the Applicant received a Notice of Debt that related to the nine weeks of overpayment of Benefits she had received. On June 16, 2023, the Applicant submitted a request for reconsideration to the Commission including a form and a letter setting out the grounds for reconsideration [Write-Off Request].

[8] The Commission considered the Applicant's request of June 16, 2023, as a write-off request pursuant to section 56 of the *Employment Insurance Regulations*, SOR/96-332 [EI Regulations].

[9] To briefly summarize, the Applicant stated in her Write-Off Request that she made an error in the calculation of weeks for Benefits on her form. She explained the steps she took once she realized that she was probably receiving Benefits outside the time for which she was entitled, including contacting Service Canada and relayed the information provided to her during that call. She explained that in May 2023, communications with another Service Canada agent on an

unrelated matter led to the discovery of the 2021 unaddressed work order and the debt. The Applicant indicated that with the passage of about two years since her initial call in 2021, she believed that the debt would be written off.



[10] The Applicant asked for the reconsideration of the Notice of Debt "given the error in parental validation and file linkage on your end, the fact that more than two years have passed with this issue unaddressed and the other aforementioned factors above." The Applicant stated that she and her husband "have not financially planned for this and did make every effort in the past to address this at the time of the issue in 2020". She also stated that this overpayment issue was left unaddressed for over two years without any further correspondence.

[11] The notes in the Certified Tribunal Record [CTR], comprise the record before the decision-maker. The CTR includes notes of calls between agents and the Applicant in 2021 and communication of the Decision to her in 2023, as well as the Applicant's Write-Off Request. The CTR also includes a "Record of Decision" of August 11, 2023, prepared by a Service Canada agent [Agent]. This document sets out the Agent's reasoning in refusing the Write-Off Request. This "Record of Decision" forms part of the Decision, as the reasoning justifying the Commission's refusal denying the Write-Off Request is found in this document.

[12] The Record of Decision sets out, among other things, the requirements of the EI Regulations that would permit a write-off of a debt. The Agent summarized that a primary consideration or criteria when deciding if an overpayment may be written off is "whether it arises

from a false or misleading statement or representation made by the debtor, or from an error on the part of the debtor."

[13] The Agent then states a relevant consideration is "whether the claimant cannot be held directly responsible for the events which led to the overpayment. In other words, the claimant did not play a role in or have any real control over the events except to request and receive the benefits in good faith."

[14] The Agent then set out the relevant facts and concluded that the overpayment of Benefits was the result of an error on the part of the Applicant and her spouse, and that the Applicant did not contact the Commission until almost all weeks were paid. The Agent then states that, among other things, "a write-off of overpayments should not apply to situations where the Commission paid benefits in error and the claimant ought to have known they were not entitled to all or some of the benefits, but did not take steps to advise the Commission in order to rectify the situation." The Agent rejected the Applicant's arguments in support of the write-off, concluding that "the defence that the Commission should not have paid benefits is not valid when a reasonable person should have known or realized that something was not right."

[15] On August 16, 2023, the Agent contacted the Applicant by phone to communicate the Decision to her verbally. A letter was also sent on August 17, 2023, informing that "[t]he Employment Insurance Commission cannot follow through with this request for reconsideration because we do not have authority to reconsider this issue. Contact the Federal Court of Canada and file an application for judicial review to appeal the refusal of the overpayment write-off."

[16] The Decision, refusing the Applicant's request for reconsideration of the Notice of Debt and refusing a write-off of the debt, is the subject of this judicial review.

## III. Issues and Standard of Review

[17] The parties agree, as do I, that the issue before the Court is whether the Decision is reasonable, applying the reasonableness standard of review (*Maheshwari v Canada (Attorney General)*, 2022 FC 253 at para 8 [*Maheshwari*], citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]).

[18] As I explained to the Applicant during the hearing, the role of the Court on judicial review is to examine the reasons provided and to seek to understand the reasoning process followed by the decision-maker to arrive at its conclusion. It is not a new or *de novo* hearing where the Court determines the merits of the Applicant's Write-Off Request. A reviewing court must determine whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility (*Vavilov* at para 99).

[19] The Supreme Court instructs that a reviewing court conducting a reasonableness review starts with the reasons and assesses whether the decision is reasonable in the outcome and process, in relation to the factual and legal constraints that bear upon the decision-maker (*Maheshwari* at para 9, citing *Vavilov* at paras 81, 83, 87, 99). Reviewing courts should not ask how they themselves would have resolved an issue. Instead, the Court should focus on whether the decision made by the administrative decision-maker — including both the rationale for the decision and the outcome to which it led — was unreasonable (*Vavilov* at paras 75, 83). A reviewing court should

not create its "own yardstick and then use [it] to measure what the [administrative decision-maker] did", ask what decision it would have made instead or try to determine the "correct" solution to the problem (*Vavilov* at para 83).



[20] The party challenging the decision, here, the Applicant, must satisfy the Court that the decision is unreasonable, and that the identified shortcomings or flaws in the decision are sufficiently central or significant to render it unreasonable (*Vavilov* at para 100).

## IV. Analysis

### A. *Preliminary Issues*

[21] During the hearing, I addressed with both parties the issue of new evidence that was not before the decision-maker.

[22] In the Applicant's case, the Applicant raised assertions with respect to her circumstances of financial hardship in the Notice of Application, and in the Applicant's affidavit and Memorandum of Fact and Law. The assertions about her personal circumstances with respect to financial hardship found in the Notice of Application and Memorandum of Fact and Law were not submitted to the decision-maker in the Write-Off Request. Exhibits G, H, I, J, and K of the Applicant's affidavit also contain financial documentation relating to her salary and expenses that were not submitted in her Write-Off Request to the Commission. Furthermore, the record before the Commission did not include her application with the Canada Revenue Agency [CRA] to address the issue of financial hardship [collectively, Applicant's New Evidence].

[23] In the Respondent's case, the Respondent referred to correspondence from the CRA to the Applicant in 2025 after the financial hardship application was considered by the CRA. As I noted during the hearing, this correspondence was part of communications from the Respondent to inform the Court on the status of the file. The correspondence post-dates the Decision and therefore was not before the decision-maker at the relevant time [Respondent's New Evidence].

[24] As I explained to both parties at the hearing, on judicial review, the Court must limit itself to the record that was before the decision-maker. Limited exceptions to this rule allow for new evidence to be admitted where it: (i) provides general background information that may assist the Court; (ii) highlights the complete absence of evidence before the decision-maker; or (iii) demonstrates procedural unfairness in the decision-making process (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13–25 [*Bernard*]; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 18–20 [*Access Copyright*]).

[25] The rationale for this rule is grounded in the respective and distinctive roles of the administrative decision-maker and the reviewing court (*Access Copyright* at paras 17–18; *Bernard* at paras 17–18). The administrative decision-maker decides the case on its merits. The reviewing court reviews the legality, rationality, and fairness of what the decision-maker has done (*Vavilov* at paras 13, 23–24, 82).

[26] None of the parties' new evidence falls within the recognized exceptions. I will therefore not consider the Applicant's New Evidence or the Respondent's New Evidence in assessing the reasonableness of the Commission's Decision.



[27] At the conclusion of the hearing, I informed the parties that parts of the CTR, the Applicant's Record and the Respondent's Record contained references to social insurance numbers and banking information. Further to the Court's directive, the parties provided specific references to the record that contained the sensitive information, which the Court has considered. A separate Confidentiality Order was issued to redact these passages from the public record.

[28] For the purposes of this Judgment, I need not and have not referred to the Applicant's sensitive information.

B. *The Parties' Positions*

[29] The Applicant does not dispute that she made an error in the calculation of the allowable weeks for her Benefits, and that she received nine weeks of payments more than she was entitled to. She also conceded that the Commission was within the six-year time frame to audit her Benefits payments.

[30] However, the Applicant argues that the Decision is not reasonable because there is no reference to her proactive conduct in 2021 where she raised the issue of overpayment, asked for the payments to stop and proposed repayment. The Applicant further submits that the Commission's discretion to write off her debt was not exercised reasonably because the Decision

placed disproportionate weight on her error. The Decision did not account for the Commission's delay in sending a Notice of Debt by approximately two years, nor its system's failure to link her account to her spouse's, which the Applicant claims would have identified the calculation error.



[31] The Applicant submits that there was also no clear explanation for the Commission's delay nor any consideration of the resulting impact of this delay on the Applicant and her family. In sum, the decision-maker did not deal with the most important parts of her Write-Off Request. The Applicant asks that the Decision be set aside and returned to a new decision-maker.

[32] The Respondent contends that the Commission reasonably denied the Write-Off Request because the overpayment arose through the Applicant's own misrepresentations in the Benefits forms. The determination of a write-off under section 56(1) of the EI Regulations is undertaken in two steps and the factors listed in section 56(1) are conditions precedent before the Commission can determine if it can exercise its discretion to write off a debt. The Applicant's circumstances did not meet the provisions of section 56(1) of the EI Regulations. Because the conditions precedent were not met, the Commission had to deny the write-off request because it could not exercise its discretion to grant one (citing *Bernatchez v Canada (Attorney General)*, 2013 FC 111 at paras 30–33 [*Bernatchez*]).

[33] The Respondent also submits that the use of the word "may" in sections 56(1) and 56(2) of the EI Regulations indicates that the Commission's decision to write off a debt is always discretionary, even where the criteria within section 56 are present and allow the Commission to consider a debt write-off. The Respondent states that writing off a debt is exceptional and only

appropriate in specific cases (citing *Maheshwari* at para 18). The Respondent submits that the Applicant has not described defects that would render the Decision unreasonable.

C. *The EI Act and Regulations*

[34] The following paragraphs explain the legal constraints that bear upon the decision-maker.

[35] The EI Act permits an applicant to receive a maximum of 40 weeks of Benefits shared between an applicant and their partner (EI Act at para 23(4.1)(a)). In the Applicant's case, it is not in dispute that because she was sharing Benefits with her spouse, she should have received only 25 weeks because her spouse claimed 15 weeks. Instead, she received 34 weeks of Benefits, which led to an overpayment to the Applicant of nine weeks.

[36] Generally, benefits that are paid to an applicant who is not entitled to them are debts due to the Crown and the Commission is required to recover them (EI Act at subsection 47(1); *Bernatchez* at para 30). This provision applies to the Applicant's overpayments.

[37] The Commission has discretion to write off a debt resulting from an overpayment where certain conditions listed in section 56 of the EI Regulations are met.

[38] These circumstances are found at section 56(1) of the EI Regulations as follows:

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|---|---|
| 56 (1) A **penalty owing** under section 38, 39 or 65.1 of the Act **or an amount payable** under section 43, 45, 46, 46.1 or 65 of the Act, or | 56 (1) La **Commission peut défalquer une pénalité à payer** en application des articles 38, 39 ou 65.1 de la Loi **ou une somme due** aux |

the interest accrued on the penalty or amount, **may be written off by the Commission if**

(a) the total of the penalties and amounts, including the interest accrued on those penalties and amounts, owing by the debtor to Her Majesty under any program administered by the Department of Employment and Social Development does not exceed $100, a benefit period is not currently running in respect of the debtor and the debtor is not currently making regular payments on a repayment plan;

(b) the debtor is deceased;

(c) the debtor is a discharged bankrupt;

(d) the debtor is an undischarged bankrupt in respect of whom the final dividend has been paid and the trustee has been discharged;

**(e) the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not, but arises from**

termes des articles 43, 45, 46, 46.1 ou 65 de la Loi ou les intérêts courus sur cette pénalité ou cette somme si, **selon le cas :**

a) le total des pénalités et des sommes, y compris les intérêts courus, que le débiteur doit à Sa Majesté en vertu de tout programme administré par le ministère de l'Emploi et du Développement social ne dépasse pas cent dollars, aucune période de prestations n'est en cours pour le débiteur et ce dernier ne verse pas de paiements réguliers en vertu d'un plan de remboursement;

b) le débiteur est décédé;

c) le débiteur est un failli libéré;

d) le débiteur est un failli non libéré à l'égard duquel le dernier dividende a été payé et le syndic a été libéré;

**e) le versement excédentaire ne résulte pas d'une erreur du débiteur ni d'une déclaration fausse ou trompeuse de celui-ci, qu'il ait ou non su que la déclaration était fausse ou trompeuse, mais découle :**

(i) soit d'une décision rétrospective rendue en vertu de la partie IV de la Loi,

(ii) soit d'une décision rétrospective rendue en vertu

(i) a retrospective decision or ruling made under Part IV of the Act, or

(ii) a retrospective decision made under Part I or IV of the Act in relation to benefits paid under section 25 of the Act; or

**(f) the Commission considers that, having regard to all the circumstances,**

(i) the penalty or amount, or the interest accrued on it, is uncollectable,

**(ii) the repayment of the penalty or amount, or the interest accrued on it, would result in undue hardship to the debtor, or**

(iii) the administrative costs of collecting the penalty or amount, or the interest accrued on it, would likely equal or exceed the penalty, amount or interest to be collected.

(emphasis added)

des parties I ou IV de la Loi à l'égard des prestations versées selon l'article 25 de la Loi;

**f) elle estime, compte tenu des circonstances, que :**

(i) soit la pénalité ou la somme, y compris les intérêts courus, est irrécouvrable,

**(ii) soit le remboursement de la pénalité ou de la somme, y compris les intérêts courus, imposerait au débiteur un préjudice abusif,**

(iii) soit les frais administratifs de recouvrement de la pénalité ou de la somme, ou les intérêts, seraient vraisemblablement égaux ou supérieurs à la pénalité, à la somme ou aux intérêts à recouvrer.

[39] Section 56(2) of the EI Regulations provides that certain benefits received more than twelve months before the debt is established may be written off if:

(2) The portion of an amount owing under section 47 or 65 of the Act in respect of benefits received more than 12 months before the Commission notifies the

(2) La Commission peut défalquer la partie de toute somme due aux termes des articles 47 ou 65 de la Loi qui se rapporte à des prestations reçues plus de

debtor of the overpayment, including the interest accrued on it, may be written off by the Commission if

**(a) the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not; and**

(b) the overpayment arises as a result of

(i) a delay or error made by the Commission in processing a claim for benefits,

(ii) retrospective control procedures or a retrospective review initiated by the Commission,

(iii) an error made on the record of employment by the employer,

(iv) an incorrect calculation by the employer of the debtor's insurable earnings or hours of insurable employment, or

(v) an error in insuring the employment or other activity of the debtor.

douze mois avant qu'elle avise le débiteur du versement excédentaire, y compris les intérêts courus, si les conditions suivantes sont réunies :

**a) le versement excédentaire ne résulte pas d'une erreur du débiteur ni d'une déclaration fausse ou trompeuse de celui-ci, qu'il ait ou non su que la déclaration était fausse ou trompeuse;**

b) le versement excédentaire est attribuable à l'un des facteurs suivants :

(i) un retard ou une erreur de la part de la Commission dans le traitement d'une demande de prestations,

(ii) des mesures de contrôle rétrospectives ou un examen rétrospectif entrepris par la Commission,

(iii) une erreur dans le relevé d'emploi établi par l'employeur,

(iv) une erreur dans le calcul, par l'employeur, de la rémunération assurable ou du nombre d'heures d'emploi assurable du débiteur,

(v) le fait d'avoir assuré par erreur l'emploi ou une autre activité du débiteur.

(emphasis added)

[40] The Respondent correctly identified that a consideration under section 56 of the EI Regulations is a two-step process. The first step is to determine eligibility according to this section. The second step is whether the discretion will be exercised to write off the debt. The eligibility criteria in section 56 of the EI Regulations are conditions precedent to the exercise of the Commission's discretion. That means if an applicant fails to meet one of the conditions precedent, the Commission will not be able to exercise any discretion (*Bernatchez* at para 30; *Maheshwari* at para 17, both citing *Allard c Canada (Procureur Général)*, 2001 FCT 789 at paras 30, 46 [*Allard*]).

[41] In the Applicant's case, the amount of the debt is more than $100 and she is not deceased or bankrupt. As such, paragraphs 56(1)(a) to (d) of the EI Regulations do not apply to her.

[42] The Applicant agreed that the overpayment of Benefits arose from an error she made in her Benefit forms. While I understand her explanation that she did the best she could when she completed the forms, it is clear from this error that paragraph 56(1)(e) of the EI Regulations does not apply to her.

[43] The same conclusion with respect to paragraph 56(1)(e) applies to section 56(2) of the EI Regulations. While the Applicant has characterized the issues with her calculations as an error whereas the Respondent has used the term "misrepresentation", the difference in these terms is not material in my analysis, given that both terms appear in these paragraphs, and both paragraphs contain substantially similar language with respect to errors and misrepresentations.

[44] The Applicant has asserted on judicial review that she would suffer financial hardship under paragraph 56(1)(f) of the EI Regulations. However, there was no evidence to support this assertion in her Write-Off Request. As such, in the absence of anything other than the statement she made in the Write-Off Request, I cannot fault the decision-maker for not engaging further with this assertion. As such, paragraph 56(1)(f) does not apply to the Applicant.

[45] Neither paragraph 56(1) nor paragraph 56(2) of the EI Regulations apply to the Applicant's case. Accordingly, the conditions precedent for the Commission to even have discretion to consider whether to write off the debt resulting from overpayment are not met (*Maheshwari* at para 27, citing *Bernatchez* at para 30, *Allard* at paras 30, 46).

[46] I also appreciate that the Applicant believes the Decision should have engaged more with her arguments and taken into consideration her actions in 2021 to deal with the overpayments and the Commission's delay, instead of placing too much emphasis on her error with her forms.

[47] However, this does not constitute a reviewable error.

[48] This is because these arguments were not central to the Decision or the issues that had to be addressed in the Decision. It remains that in the context of the section 56 review, it is necessary for the Agent to consider whether "the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not."

[49] As such, I cannot find that it was unreasonable for the Agent (and the Decision) to focus on whether there was an error by the Applicant or a false or misleading declaration or representation in the application, whether the Applicant knew it or not. Under the EI Regulations, this factor is one of the necessary and required factors that must be met to determine if the exercise of discretion to write off a debt is available or not.

[50] Based on the legal and factual constraints that bear upon the decision-maker, the Commission's Decision that it was unable to exercise any discretion to write off the Applicant's debt is reasonable.

## V. Conclusion

[51] The application for judicial review must be dismissed. The Decision meets the hallmarks of reasonableness, being intelligible, transparent, and justified in its analysis of the evidence and arguments provided.

[52] The Respondent does not seek costs in this matter, and I agree that none should be ordered.

**JUDGMENT in T-553-24**

**THIS COURT'S JUDGMENT is that**:

1. The application for judicial review is dismissed, without costs.

"Phuong T.V. Ngo"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | T-553-24 |
| **STYLE OF CAUSE:** | MEAGHAN GRENVILLE v ATTORNEY GENERAL OF CANADA |
| **PLACE OF HEARING:** | VIDEOCONFERENCE |
| **DATE OF HEARING:** | MARCH 25, 2026 |
| **JUDGMENT AND REASONS:** | NGO J. |
| **DATED:** | MAY 5, 2026 |

**APPEARANCES:**

| | |
|---|---|
| Meaghan Grenville | FOR THE APPLICANT (ON HER OWN BEHALF) |
| Supanki Kalanadan<br>Lucky Ingabire | FOR THE RESPONDENT |

**SOLICITOR OF RECORD:**

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| Attorney General of Canada<br>Ottawa (Ontario) | FOR THE RESPONDENT |