

Federal Court



Cour fédérale

Date: 20260409

Docket: 26-T-133

Ottawa, Ontario, April 9, 2026

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

BRANDY SHUTTLEWORTH

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

ORDER AND REASONS

I. Overview

[1] On March 18, 2026, the Applicant, Brandy Shuttleworth, filed a motion in writing, pursuant to section 369 of the *Federal Court Rules*, SOR/98-106 [*Rules*], seeking an Order for extension of time of another fifteen (15) days, to commence an Application for Judicial Review [Application] pursuant to subsection 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 [*Act*], of a decision rendered on July 9, 2025, by the Canadian Revenue Agency [CRA] which found her

ineligible for the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB], [Decision].

[2] The Respondent, the Attorney General of Canada [ACG], filed a responding motion record on March 27, 2026, indicating his opposition to the Applicant's motion and asking that it be dismissed without costs.

[3] Having considered the Applicant's motion record, including the affidavit of the Applicant sworn on February 13, 2026, as well as the Applicant's written submissions, the motion is denied.

II. Analysis

[4] The test for a motion to extend the application deadline requires the Applicant to demonstrate a) a continuing intention to pursue her Application; b) that the Application has some merit; and c) that no prejudice to the respondent arises from the delay; and d) that a reasonable explanation for the delay exists (*Thompson v Canada (Attorney General)*, 2018 FCA 212 at para 5 [*Thompson*], citing *Canada (Attorney General) v Larkman*, 2012 FCA 204 [*Larkman*] at para 61; *Alberta v Canada*, 2018 FCA 83 at para 44 [*Alberta*] citing *Canada (Attorney General) v Hennelly*, 1999 CanLII 8190 (FCA), [1999] FCJ No 846, [*Hennelly*] at para 3; *Tanczos v Canada (Attorney General)* 2024 FC 232 [*Tanczos*] at para 1; *Cheng v Canada (Attorney General)*, 2024 FC 1909 [*Cheng*] at para 16).

[5] A decision to grant or refuse an extension of time is discretionary and the above-mentioned factors are not determinative, meaning that it is not absolutely necessary for all four factors to be resolved in the Applicant's favour for the Court to grant an extension of time (see *Whitefish Lake First Nation v Grey*, 2019 FCA 275 [*Whitefish*] at para 3; *Larkman* at para 62 ; *Cheng* at para 17). These factors are nonetheless helpful to determine whether the granting of an extension is in the interest of justice (*Whitefish* at para 3; *Alberta* at para 45; *Larkman* at para 62).

[6] The burden is on the Applicant to prove each of these elements (*Viridi v Canada (Minister of National Revenue)*, 2006 FCA 38 at para 2).

[7] Having considered the motion record and the Applicant's submissions, the Court is not convinced that it would be in the interest of justice to grant the motion. The evidence provided is insufficient to satisfy the four factors above-mentioned, governing the Court's exercise of its discretion (*Clinique Sherbrooke inc v His Majesty the King*, 2023 FC 1755 [*Clinique Sherbrooke*] at para 18).

[8] First, the Applicant's motion record only contains a summary affidavit and short written representations. No evidence is adduced to bolster the claims made in the affidavit whether it be with respect to the reasons for the delay or the steps that the Applicant allegedly took to discuss her file with the CRA.

[9] As a result, regarding her continued intention to pursue the matter, the Applicant does not produce any evidence beyond vague statements. She merely mentions that, once her anxiety

receded and she “was able to re-engage with the issue”, she reached out to the CRA. Her exchanges with the CRA are not in her record and she makes no allegation as to their timing. As a result, the Applicant has not proven her continued intention to pursue the matter. As the Respondent notes, she only claims that she avoided taking further steps due to her anxiety for some undefined period of time, without providing any medical evidence in relation to her anxiety. The Respondent did, however, produce CRA records. They show that the Applicant reached out to the CRA to enquire about the judicial review process on February 10, 2026. This is no less than seven months after the Decision, and several weeks before the Motion was filled. The Applicant’s continued intention to challenge the Decision is not proven.

[10] Second, the grounds supporting the application for judicial review are not clearly identified. The Applicant’s affidavit only mentions that “the CRA decision was based on an error” and her written representations merely state that the basis for her challenge is that “the eligibility criteria were incorrectly applied”. In the absence of any further specifics and documentation, the Court is prevented from assessing whether the Application has any merit (*Tanczos* at para 6). Hence, the second factor above-mentioned is not met.

[11] Third, the Applicant’s explanations for the delay are also imprecise and unsubstantiated. Except for the Applicant’s own affidavit mentioning some anxiety that the Decision caused, there is no evidence to substantiate her explanation for the delay of approximately 7 months beyond the limitation period (*Tanczos* at paras 8-9). Therefore, the fourth factor is also not met. There is no reasonable explanation for the delay.

[12] As stated by Justice Gascon in *Clinique Sherbrooke*:

[35] In weighing each of the factors set out in *Larkman* and *Hennelly*, and taking into account the circumstances of this case, I give decisive weight to the total absence of justification for the very long delay and the lack of demonstration that Sherbrooke's application has merit. Following my analysis, I can therefore identify no reason that would allow me to extend the time for filing Sherbrooke's application for judicial review.

[36] It has been repeatedly recognized that undertaking judicial review of administrative tribunal decisions within the relatively short timeframes prescribed by the Act reflects the public interest in the finality of administrative decisions (*Canada v Berhad*, 2005 FCA 267 at para 60 [*Berhad*], leave to appeal to SCC refused, 31166 (May 25, 2006); *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41 at para 24). This time limit "is not whimsical" and exists "in the public interest, in order to bring finality to administrative decisions so as to ensure their effective implementation without delay" (*Berhad* at para 60).

[37] I recognize that the interests of justice remain the paramount consideration in granting an extension of time. But the interests of justice do not exist in a vacuum, and do not absolve applicants of the duty to meet their burden of proof. Here, to exercise my discretion in Sherbrooke's favour would require me to ignore all the established criteria for an extension of time, and to turn a blind eye to the lack of evidence to support each of the factors set out in the case law for considering granting such an extension. The rule of law is based on the fundamental principles of certainty and predictability. The exercise of a discretionary power must originate in the law. The exercise of such a power cannot be adequate or judicious, and in the interests of justice, if it ignores the minimum requirements of the applicable law.

[13] Given the above, the Court is of the view that the Applicant has not met her burden of proving that the test is met, nor that it would be in the interest of justice to grant her an extension of time with respect to the CRB Decision.

THIS COURT ORDERS that:

1. The Applicant's motion for an extension of time to file her application for judicial review with respect to the Decision is dismissed.
2. No costs are awarded.

"Danielle Ferron"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: 26-T-133

STYLE OF CAUSE: BRANDY SHUTTLEWORTH v ATTORNEY
GENERAL OF CANADA

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

ORDER AND REASONS: FERRON J.

DATED: APRIL 9, 2026

WRITTEN REPRESENTATIONS BY:

Brandy Shuttleworth

ON HER OWN BEHALF

Chelsea Barkhouse

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Justice Canada
Prairie Regional Office
Calgary, Alberta

FOR THE RESPONDENT