

Federal Court



Cour fédérale

Date: 20260508

Docket: T-2765-25

Citation: 2026 FC 612

Ottawa, Ontario, May 8, 2026

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

MICHELLE SARAH MATTA

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Michelle Sarah Matta, seeks judicial review of a decision, made by an agent (the “Agent”) of the Canada Revenue Agency (“CRA”), dated July 2, 2025, finding her ineligible for several periods when she received the Canada Emergency Response Benefit (“CERB”). Based on a review of Ms. Matta’s eligibility, the Agent determined that she failed to

demonstrate that her weekly gross income was below \$1,000 or that she had stopped working due to reasons related to Covid-19 in the relevant periods.

[2] These are the exact same reasons that the CRA determined that Ms. Matta was ineligible in a decision that was determined unreasonable by this Court in *Matta v Canada (Attorney General)*, 2025 FC 195 (“*Matta*”) at paragraph 3. While consistency is generally a virtue, it must be accompanied by reasons that are justified, intelligible, and transparent.

[3] For similar reasons as the judgement in *Matta*, I find that the decision before me also lacks the hallmarks of reasonableness. This judicial review is allowed, and I would remit the matter to be redetermined by another decision maker.

[4] Throughout these proceedings, I have been mindful of the fact that Ms. Matta 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. I commend Ms. Matta for her submissions and acknowledge the stress that these prolonged proceedings may have caused.

II. Background

A. *Legislative Framework*

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

[6] The CERB Act 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] Section 6 of the CERB Act sets out various eligibility requirements. One of the requirements at issue in this proceeding mandates that benefit recipients must have stopped working for reasons related to Covid-19 for at least 14 consecutive days within the four-week period in which they applied for the CERB (CERB Act, s 6(1)(a)).

[8] Additionally, the CERB Act, along side the *Income Support Payment (Excluded Nominal Income) Regulations*, SOR/2020-90 (“*Regulations*”), sets out a maximum income that benefit recipients may receive during the 14 days in which they claim their employment was affected by Covid-19 (the “Maximum Income Threshold”). According to the *Regulations* in force in April 2020, a worker remains eligible for the CERB so long as the income they received in the applicable period remains \$1,000 or less (CERB Act, s 6(1)(b)(i); *Regulations*, s 1).

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

B. *Facts*

[10] Ms. Matta is a schoolteacher. During the 2019 to 2020 school year, she worked as a long-term occasional teacher, meaning that she worked 20% of a full-time week and sought to

supplement her income through supply teaching. With the onset of the Covid-19 pandemic, the school board stopped occasional teaching, and Ms. Matta could no longer supplement her income, leading her to rely on the CERB.

[11] The CRA initiated a review of Ms. Matta's eligibility for the CERB and, in a letter dated October 18, 2023, the CRA found Ms. Matta ineligible for the four periods in which she had applied for and received the CERB from April 12, 2020 to June 6, 2020 and from July 5, 2020 to August 29, 2020. Ms. Matta requested a second review.

[12] In a letter dated May 8, 2024, the CRA again found that Ms. Matta was ineligible. Ms. Matta sought judicial review of this decision, and, on January 30, 2025, Justice Southcott found that the CRA's determination was unreasonable. The central issue was the CRA agent's failure to engage with Ms. Matta's key argument that the CRA should use net income instead of gross income in its calculation of the Maximum Income Threshold (*Matta* at paras 25-27).

[13] Ms. Matta's eligibility for the CERB was referred back to another decision maker and, in a letter dated July 2, 2025, the Agent again determined that Ms. Matta was ineligible for the CERB in the four key periods ("Further Second Review"). The letter and notes from the Agent state that Ms. Matta earned more than \$1,000 of employment income from April 12, 2020 to June 6, 2020, and stopped working for reasons unrelated to the Covid-19 pandemic from July 5, 2020 to August 29, 2020.

[14] In advance of this decision, the Agent had several phone calls with Ms. Matta regarding the eligibility requirements. During these phone calls in May and June 2025, the Agent noted

that Ms. Matta challenged the use of gross income instead of net income. Ms. Matta referenced Justice Southcott's judgement in *Matta* and asked to be provided with documents that were contemporaneous with her application for the CERB and specified that the basis of the calculation was her gross income.

[15] The Agent referred Ms. Matta to the CERB Act and the Canadian Gazette for the *Regulations*. In the Agent's internal notes, they state that the calculation for the Maximum Income Threshold is based on total employment income earned, meaning the amount reported on Ms. Matta's T4 as the income she earned before deductions. The notes elaborate that the Maximum Income Threshold is calculated based on the same method as the minimum income threshold for \$5,000 in order to maintain consistency.

[16] During these phone calls, Ms. Matta further specified that she had lost her casual hours due to Covid-19, and this meant that she was not eligible to apply for employment insurance during the summer months in which she applied for the CERB. The Agent's notes show that they appear to accept that Ms. Matta was applying for jobs and went for job interviews during this period but did not find employment.

[17] The Agent ultimately concludes that Ms. Matta was ineligible for the CERB for the summer months in which she applied for it because she had ceased working due to the end of the school year, not due to reasons related to Covid-19.

III. Issue and Standard of Review

[18] Although Ms. Matta alleges both that the Further Second Review is unreasonable and made in a procedurally unfair manner, she makes no substantive submissions regarding the procedural fairness of the decision. Accordingly, I find that the sole issue in this judicial review is whether the Agent's decision is reasonable.

[19] The parties submit that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”). I agree.

[20] 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).

[21] 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).

IV. Analysis

[22] Ms. Matta submits that she would have earned less than \$1,000 if the Agent used net income instead of gross income to calculate the Maximum Income Threshold. Relying on *Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 (SCC), Ms. Matta submits that the Agent should have interpreted the legislation in her favour because the CRA’s guidelines on applying for the CERB used ambiguous language at the time she applied for the benefit. Ms. Matta further submits that the Agent overlooked the evidence that she had been deprived employment insurance due to Covid-19 during the school year, forcing her to apply for the CERB during the summer months. She submits that the Agent should have considered that the purpose of the CERB Act was to alleviate the loss of income for those who were not eligible for employment insurance during the pandemic.

[23] The Respondent submits that the Agent accounted for the evidence before them and duly noted the text of the CERB Act and the *Regulations* when calculating Ms. Matta’s eligibility based on her gross income. The Respondent further submits that the Agent relied on the Applicant’s record of employment to determine that she did not face unemployment or a loss of income due to the Covid-19 pandemic.

[24] I disagree. I find that the Agent’s analysis of the Maximum Income Threshold was not alive to the text, context, and purpose of the CERB Act (*Judt v Canada (Attorney General)*, 2024

FC 2012 (“*Judt*”) at para 24; *Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 (“*Pepa*”) at paras 47, 62; *Vavilov* at para 120). The Agent need not engage in a formal statutory analysis, but they still must be aware of the remedial purpose of the CERB Act and engage, even briefly, with the principles of modern statutory interpretation where there may be an incongruency between their interpretation and the text, context, or purpose of the act (*Judt* at para 28; *Pepa* at para 63).

[25] In *Shtokal v Canada (Attorney General)*, 2025 FC 498 (“*Shtokal*”), my colleague Justice Ngo found that silence in the CERB Act and *Regulations* regarding whether to calculate the Maximum Income Threshold based on gross or net income does not justify the CRA’s use of gross income (at para 20). Instead, Justice Ngo determined that the CRA must justify their preference for gross rather than net income (*Shtokal* at paras 23-24). This aligns with this Court’s previous determination in *Matta*, which required the agent to engage with the central arguments raised by the Applicant, including statutory interpretation (at paras 25-27).

[26] I note that there are some decisions from this Court that refer to the Maximum Income Threshold as based on gross income. However, in those cases, the benefit recipient either did not make submissions to the CRA agent based on statutory interpretation or the income of the benefit recipient exceeded the Maximum Income Threshold to such an extent that calculating based on net income instead of gross income would not have made a difference (*Johnson v Canada (Attorney General)*, 2025 FC 1204 at para 25; *Di Lello v Canada (Attorney General)*, 2026 FC 145 at paras 5, 21, 26-27; *Mutlaq v Canada (Attorney General)*, 2025 FC 884 (“*Mutlaq*”) at paras 25, 27). In *Mutlaq*, where the benefit recipient had submitted to this Court that the CRA agent should have calculated her income based on her gross income rather than net

income, this Court simply concluded that there was no compelling basis to find that the agent's determination was unreasonable (at para 27). However, the facts before me do present a compelling basis to make such a conclusion.

[27] In various phone calls to the Agent and another representative of the CRA, Ms. Matta discussed the issue of whether net or gross income would be used in their calculations. She noted to the Agent that "gross" income was not used in the legislative framework at the time when she applied. In support of this argument to the Court, Ms. Matta showed impressive foresight by presenting screen shots from 2020 of the CRA guidelines for individuals applying for the CERB. These screen shots did not indicate whether income should be calculated before or after taxes. Ms. Matta also provided a previous iteration of the CRA's policy on Confirming Covid-19 Benefits Eligibility, which she obtained in the course of her previous judicial review of the Second Review. This policy does not disclose any notes regarding whether the Maximum Income Threshold should be based on net or gross income. This differs from the most recent CRA policy on Confirming Covid-19 Benefits Eligibility, which states that the Maximum Income Threshold should be based on the benefit recipient's pre-tax income. I find that both policies and the screen shot of the CRA's guidelines are admissible as they would have been known to the Agent at the time of their decision as part of the CRA's internal documents (*Bristol-Myers Squibb Co v Canada (Attorney General)*, 2005 SCC 26 at para 156 (dissenting but not on this point)).

[28] Despite the Agent's reference to the CERB Act and the *Regulations*, I cannot discern any engagement by the Agent with the text, context, or purpose of these legislative instruments. During the phone calls with Ms. Matta, the CRA agents repeatedly directed her towards the

CERB Act and *Regulations*, along with other unspecified links. As the CERB Act and *Regulations* are silent on whether gross or net income is used to calculate the Maximum Income Threshold, I fail to understand the connection between these sources and the Agent's interpretation that income refers to "gross" income. In the Agent's internal notes, they state that gross income was used in order to maintain consistency with the method for calculating the minimum income threshold for eligibility for the CERB. This is not a reference to the legislative framework, but instead it is the same note that is in the CRA's most recent policy on Confirming Covid-19 Benefits Eligibility. Given that Ms. Matta provided ample arguments and evidence showing ambiguity in this criterion when she applied for the CERB, the Agent must do more than regurgitate the most recent policy statement in order to show that they were alive to the text, context, and purpose of the CERB Act.

[29] I further find that the Agent failed to engage with Ms. Matta's argument regarding her eligibility for the CERB in the summer of 2020.

[30] While the Agent acknowledged that Ms. Matta had engaged in a job search and had gone to job interviews without finding employment, the Agent simply notes that she was unemployed due to the end of the school year. In their determination, the Agent stated that Ms. Matta had confirmed in a phone call on May 28, 2025, that she was laid off due to the end of the school year rather than Covid-19. However, the Agent's notes from the phone call on May 28, 2025, state both that she finished her contract due to the end of the school year but, even though she had applied and went to interviews, she could not find any new work due to Covid-19.

[31] This Court previously found that it was open for the CRA agent to weigh Ms. Matta's search for employment in the summer of 2020 in accordance with the criteria for the CERB (*Matta* at paras 39-40). However, given her submissions before the Agent regarding the reason for her unemployment, it was incumbent upon the Agent to duly consider whether Covid-19 had prevented Ms. Matta from otherwise finding new work in the summer of 2020 (*Fentum v Canada (Attorney General)*, 2023 FC 857 at para 20; *Vavilov* at para 128). In the absence of any consideration for Ms. Matta's submissions, I cannot find that the Agent's decision was reasonable on this point.

V. Remedy

[32] Ms. Matta submits that the matter should not be referred back to the CRA for redetermination due to the prolonged proceedings and the need to avoid endless "merry go rounds" of judicial review (*Vavilov* at para 142).

[33] While I sympathize with the continued stress that these proceedings have caused Ms. Matta, I do not find it would be appropriate for this Court to determine the outcome of her eligibility for the CERB.

[34] Where a decision cannot be upheld on a judicial review, the usual remedy is to remit the decision to the decision maker for redetermination, with the only relevant exception being when remitting the decision would serve no useful purpose (*Vavilov* at para 142). As my colleague Justice Aylen found in *Lin v Canada (Attorney General)*, 2025 FC 1663, the eligibility of an applicant for Covid-19 benefits like the CERB is not inevitable based on an unreasonable

assessment of one of the required criteria (at paras 29-32). I find this reasoning also applies to the case before me, where the outcome of Ms. Matta's eligibility is not a foregone conclusion.

[35] Before concluding, I wish to emphasize that the purpose of remitting the matter back to the decision maker upon a judicial review is, in part, so that the decision maker may benefit from the Court's reasoning (*Vavilov* at para 141). The fact that this decision has come before this Court yet again with nearly identical issues supposes that this Court's reasoning may not have been adequately absorbed. I would like to stress the importance of reasonable decision making for the sake of both administrative and judicial economy.

VI. Conclusion

[36] For these reasons, I find that the Agent's determination is not reasonable in light of the applicable legal and factual context (*Vavilov* at para 99). Accordingly, I allow this judicial review, without costs.

JUDGMENT in T-2765-25

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is allowed.
2. The matter is referred back for redetermination by a different agent.
3. There is no order as to costs.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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OF CANADA

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APPEARANCES:

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