Federal Court Cour fédérale

Date: 20260424

Docket: T-3836-25

Citation: 2026 FC 551

Ottawa, Ontario, April 24, 2026

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

MATTHEW SALI

Applicant

and

CANADA REVENUE AGENCY

Respondent

ORDER AND REASONS

I. Overview

[1] The Applicant, Matthew Sali, brings a motion requesting leave to amend the Notice of Application to include the Minister of National Revenue's decision dated April 18, 2024, that denied his eligibility for the Canada Emergency Response Benefit ("CERB") and the Canada Recovery Benefit ("CRB") (the "Decision"). A corollary effect of the Applicant's motion is that he will also require an extension of time to make the requested amendment.

[2] The Respondent submits that the Applicant's motion ought to be dismissed. They argue that the Applicant has not demonstrated a continuing intention to pursue an application for judicial review, that he has not provided a reasonable explanation for the delay and that the delay is prejudicial.

[3] In addition, the Respondent brings a cross-motion to have the underlying Application for Judicial Review struck on the basis that the Applicant seeks to judicially review a courtesy letter dated August 27, 2025 (the "Courtesy Letter"), which is not an administrative decision. Accordingly, the Respondent argues that it is plain and obvious that the judicial review cannot succeed.

[4] For the reasons that follow, the Applicant's motion to amend the application to include the Decision is dismissed. The Respondent's cross-motion to have the application struck is granted.

II. Background

[5] The Applicant applied for and received the CERB for seven (7) two-week periods between March 15, 2020, and September 26, 2020.

[6] The Applicant applied for and received the CRB for twenty-seven (27) two-week periods between September 27, 2020, and October 9, 2021.

[7] The Applicant's applications were validated by agents with the Canada Revenue Agency ("CRA"). Following a second review, CRA determined that the Applicant was not eligible for the CERB and the CRB and notified the Applicant of the decision on April 18, 2024.

[8] The Decision states that the Applicant was not eligible for the CERB and the CRB because "[Y]ou did not earn at least $5,000 (before taxes) of employment or self-employment income in 2019 or in the 12 months before the date of your first application".

[9] In addition, the Decision states "[I]f you disagree with the result of the second review, you may apply to the Federal Court for a judicial review within 30 days of the date of this letter".

[10] On May 6, 2024, the Applicant submitted a letter indicating that he disagreed with the decision, and he submitted additional documentation to CRA via the MyAccount portal.

[11] On August 27, 2025, CRA sent the Applicant the Courtesy Letter and indicated that they would not be reviewing his file further following the second-level review Decision.

[12] On September 23, 2025, the Applicant filed a Notice of Application seeking to judicially review the Courtesy Letter.

[13] On October 14, 2025, Counsel for the Respondent, Ms. Almightyvoice, wrote to the Applicant and advised that the Respondent was of the view that the Courtesy Letter is not a reviewable decision. Counsel advised that pursuant to section 18.1(2) of the *Federal Courts Act*,

RSC 1985, C F-7 ("*Federal Courts Act*"), an application for judicial review in the Federal Court must be brought within 30 days of a decision. Accordingly, Counsel indicated that if the Applicant intended to challenge the Decision, the Respondent's position was that the Applicant "must make a motion for an extension of time to do so and will need to amend your Notice of Application".

[14] On March 11, 2026, the Applicant sought to amend the Application to include the Decision.

[15] The eligibility criteria for the Benefits are statutory and non-discretionary; it is set out in section 8 of the *Canada Emergency Response Benefit Act*, SC 2020, c 5 ("CERB Act") and in section 2 of the *Canada Recovery Benefits Act*, SC 2020, c 12 ("CRB Act"). The aim of both these Acts was to provide financial support to workers who suffered income loss due to COVID-19 restrictions. The Minister of Employment and Social Development (the "Minister") is responsible for the Benefits (CERB Act, s 4; CRB Act, ss 2–4); however, the Benefits are administered by the CRA (CRB Act, s 41; *Vatankhah v Canada (Attorney General)*, 2025 FC 235 at paras 12–15). Parliament granted the Minister the authority to make determinations with respect to the eligibility for the Benefits (CERB Act, s 3; CRB Act, ss 3–4).

III. Issues and Standard of Review

[16] The applicable standard of review for the Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 53).

[17] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Vavilov* at paras 12–15, 95). The starting point for a reasonableness review is the reasons for decision. Pursuant to the *Vavilov* framework, 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).

[18] To intervene on an application for judicial review, the court must find an error in the decision that is central or significant to render the decision unreasonable (*Vavilov* at para 100).

[19] The Applicant bears the burden of demonstrating that alleged flaws in the decision are sufficiently central or significant to render the decision unreasonable (*Vavilov* at paras 100, 125). Generally, save for exceptional circumstances, reviewing courts will not interfere with a decision maker's findings of fact, nor re-weigh or re-assess a decision maker's evidentiary findings (*Vavilov* at para 125).

[20] The standard of review applicable to determining if a decision maker complied with the duty of procedural fairness is generally described as correctness (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*CPR*] at para 34, citing *Mission Institution v Khela*, 2014 SCC 24 at para 79). The question is: did the Applicant know the case to be met, and did the Applicant have a full and fair opportunity to make submissions?

IV. Analysis

A. *Applicant's motion for leave to amend the application for judicial review*

[21] The Applicant seeks to amend the Notice of Application and a "retroactive extension of time" to amend his application to include the Decision.

[22] The Applicant's motion appears to be based, in part, on the October 14, 2025 letter from the Respondent's counsel.

[23] The Applicant is self-represented. As this Court has noted, a self-represented litigant is not excused from the application of this Courts' rules. Self-represented litigants have obligations to be self-educated (*Rooke v Canada (Attorney General)*, 2018 FC 204 at para 23, citing *MacDonald v Canada (Attorney General)*, 2017 FC 2 at paras 29, 33); and *Clark v Canada (Attorney General)*, 2024 FC 1702 at para 12).

[24] I appreciate that the Applicant appears to have brought his motion based on the October 14, 2025 letter from counsel for the Respondent. It is important to underscore that the letter was not legal advice.

[25] That said, I am sympathetic to the difficult position that self-represented litigants find themselves in with respect to navigating the Court's procedural requirements, which can be challenging, even for counsel. In recognition of this, the Court has developed tools that are available to assist self-represented litigants to understand a broad range of procedural issues.

This information is available on the Federal Court's website, it is prominently displayed, and it is free (*Soderstrom v Canada (Attorney General)*, 2011 FC 575 [*Soderstrom*] at paras 19-22).

[26] Turning back to the Applicant's motion for an extension of time and leave to amend his application, the Respondent argues that the motion should be dismissed.

[27] Subsection 18.1(2) of the *Federal Courts Act* establishes a time limitation of 30 days to bring an application for judicial review in respect of an administrative decision.

[28] The Court considers four (4) factors in its exercise of discretion to grant an extension of time: (i) that there is a continuing intention to pursue the application; (ii) that the application has some merit; (iii) that there is no prejudice to the Respondent; and (iv) that a reasonable explanation for the delay exists: *Canada (Attorney General) v Hennelly* (1999), 167 FTR 158, 1999 CanLII 8190 (FCA) [*Hennelly*] at para 3.

[29] The Federal Court of Appeal has clarified that it is not always necessary to satisfy all four factors (*Whitefish Lake First Nation v Grey*, 2019 FCA 275 at para 3). As noted recently by Madam Justice Christine Pallotta in *Whitelaw v Canada (Attorney General)*, 2023 FC 1410 at para 50, "[t]he overriding consideration is whether it is in the interests of justice that the extension of time be granted."

[30] The Applicant has failed to persuade the Court that it is in the interests of justice to grant an extension of time. The Applicant has not provided affidavit or other evidence to establish he

had a continuing intention to pursue the application. While there is some evidence that, following the second review of his denial of benefits, he provided further information in the CRA MyAccount portal, it is not clear why he chose to do this rather than file an application for judicial review within the 30 days as set out in the Decision letter dated April 18, 2024. Nor is there an explanation that the Applicant intended to pursue the application during the entire period of the delay. The Applicant ought to have brought his application by May 18, 2024; however, he did not file his application until September 23, 2025—494 days after the expiration of the limitation period set out at section 18.1(2) of the *Federal Courts Act*. The Applicant has not provided an explanation for the delay nor evidence of steps he took to preserve his rights.

[31] The Respondent argues that it is prejudiced by the Applicant's long delay in bringing forward the motion to amend his application to judicially review the Decision. The Respondent does not point to specific prejudice; however, I agree that the purpose of limitations generally is to bring finality and certainty to administrative processes.

[32] In addition, the Applicant's motion materials fail to demonstrate the basis on which he is challenging the Decision. The Applicant does not identify breaches of procedural fairness or specific errors that would render the decision unreasonable warranting the Court's intervention.

[33] As noted above, it appears that the Applicant is asserting that the CRA failed to consider new materials submitted using the MyAccount portal on May 6, 2024. However, the Court notes that these materials were provided after the Decision on April 18, 2024.

[34] Generally, a party may not submit new evidence on an application for judicial review (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at para 13; *Delios v Canada (Attorney General)*, 2015 FCA 117 at para 42). The reviewing court is to determine if the decision was reasonable based on the evidence that was before the original decision maker (*Connolly v Canada (Attorney General)*, 2014 FCA 294 at para 7; see also *Sharma v Canada (Attorney General)*, 2018 FCA 48 [*Sharma*] at para 7).

[35] A court may admit new evidence on judicial review in three limited circumstances. One, where the new evidence provides general background information that assists the Court in its understanding of the relevant issues, without adding evidence that goes to the merits of the matter. Two, where the new evidence brings the Court's attention to procedural defects not found in the record before the decision maker. Three, where the new evidence highlights a complete absence of evidence before the decision maker on a finding (*Bains v Canada (Citizenship and Immigration)*, 2020 FC 57 at paras 23–24 citing with approval *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*Access Copyright*] at para 20).

[36] While the list of exceptions is not exhaustive, the exceptions "exist only in situations where the receipt of evidence by this Court is not inconsistent with the differing roles of the judicial review court and the administrative decision-maker" (*Access Copyright* at para 20). This Court's role is to review the Decision based on the facts before the decision-maker and not to consider new evidence that should have been made available to the CRA in the course of the validation process (*Sharma* at paras 8–9).

[37] The Applicant's materials do not provide insight to assist the Court to understand why the new information was not made available to the CRA during the validation process. Further, the Applicant did not address why this Court ought to consider the new materials on an application.

[38] I am persuaded by the Respondent that ultimately, the Applicant disagrees with the Decision, which is not a sufficient basis for a judicial review.

[39] The Applicant has not demonstrated that it is in the interests of justice to amend the application for judicial review to include the Decision. The Applicant has failed to demonstrate that the Court ought to exercise its discretion to grant an extension of time.

B. *Respondent's cross-motion to strike the application*

[40] The Respondent has brought a cross-motion to strike the application on the basis that the Applicant seeks to judicially review the Courtesy Letter, which they assert is not an administrative decision that is reviewable by this Court.

[41] The Applicant did not make submissions with respect to the Respondent's cross-motion.

[42] While there is no specific provision in the *Federal Courts Rules*, SOR/98-106 (the "*Rules*") providing for a motion to strike a notice of application, the Federal Court has jurisdiction to do so. As stated in *JP Morgan Asset Management (Canada) Inc. v Canada (National Revenue)*, 2013 FCA 250 [*JP Morgan*], the jurisdiction "is founded not in the rules but

in the Courts' plenary jurisdiction to restrain the misuse or abuse of courts' processes" (see para 48).

[43] The test on a motion to strike a notice of application for judicial review was described as follows by the Federal Court of Appeal in *JP Morgan*:

> [47] The Court will strike a notice of application for judicial review only where it is "so clearly improper as to be bereft of any possibility of success" [footnote omitted]: *David Bull Laboratories (Canada) Inc. v. Pharmacia Inc.*, 1994 CanLII 3529 (FCA), [1995] 1 F.C. 588 (C.A.), at page 600. There must be a "show stopper" or a "knockout punch"—an obvious, fatal flaw striking at the root of this Court's power to entertain the application: *Rahman v. Public Service Labour Relations Board*, 2013 FCA 117, at paragraph 7; *Donaldson v. Western Grain Storage By-Products*, 2012 FCA 286, at paragraph 6; *Hunt v. Carey Canada Inc*., 1990 CanLII 90 (SCC), [1990] 2 S.C.R. 959.

[44] As recently stated by the Supreme Court of Canada in *Canada (Attorney General) v. Iris Technologies Inc.*, 2021 FCA 244:

> [26] There is no dispute on the proper test to be applied on a motion to strike in this context. A court seized of a motion to strike assumes the allegations of fact set forth in the application to be true and an application for judicial review will be struck where it is bereft of any possibility of success (*JP Morgan Asset Management (Canada) Inc. v. Canada (National Revenue)*, 2013 FCA 250, [2014] 2 F.C.R. 557, at para. 47). It is understood to be a high threshold and will only be granted in the "clearest of cases" (*Ghazi v. Canada (National Revenue)*, 2019 FC 860, 70 Admin L.R. (6th) 216, at para. 10).

[45] The Respondent seeks to strike the application because they say the Courtesy Letter is not a reviewable decision pursuant to section 18.1(3)(b) of the *Federal Courts Act*.

[46] Recently, Justice Manson noted in *He v Canada*, 2025 FC 1875:

> [28] This Court has held that a courtesy letter that merely confirms a decision was already made is not itself reviewable unless the decision maker actually undertakes a fresh reconsideration on the basis of new facts or evidence and makes a new determination (*Global Marine Systems Ltd v Canada (Transport)*, 2020 FC 414 at para 59; *Francoeur v Canada (Treasury Board)*, 2010 FC 121 at paras 13, 16) An administrative body's conduct does not trigger rights to bring a judicial review where it does not affect legal rights, impose legal obligation, or cause prejudicial effects (*McLaughlin v Canada (Attorney General)*, 2022 FC 1466 at para 45, citing *Air Canada v Toronto Port Authority*, 2011 FCA 347 at paras 28-29).

[47] A review of the Courtesy Letter supports the conclusion that this was a mere confirmation of the Decision made on April 18, 2024. The CRA clearly did not undertake a fresh consideration of the facts, evidence or make a new decision. The Courtesy Letter states:

> The CRA reviewed your CERB and CRB eligibility and set you letters with our decision on April 18, 2024.
>
> The letters (sic) explained why you were not eligible for the CERB and CRB and advised if you disagree with the CRA's decision, you may apply to the Federal Court for a judicial review within 30 days of the date of the letter. … therefore we will not complete another review of your eligibility.

[48] In view of the facts and the legal framework outlined above, I agree with the Respondent; that the Courtesy Letter is not reviewable by this Court.

[49] The Respondent has included an affidavit in their cross-motion to strike record.

[50] Generally, on a motion to strike, affidavit evidence is not considered. Indeed, Rule 221(2) is clear that no evidence shall be heard on a motion for an order to strike pursuant to Rule

221(1)(a). Recently, the Federal Court of Appeal noted that "[the] legislative prohibition against the use of evidence on a motion to strike is underlined by solid policy considerations" (*Mohr v National Hockey League*, 2022 FCA 145 at para 57; see also paras 56–59 and *Fitzpatrick v Codiac Regional RCMP Force, District 12*, 2019 FC 1040 at para 15).

[51] However, there are exceptions to this general rule. As noted by the Federal Court of Appeal in *Access Copyright*:

> [20] There are a few recognized exceptions to the general rule against this Court receiving evidence in an application for judicial review, and the list of exceptions may not be closed. These exceptions exist only in situations where the receipt of evidence by this Court is not inconsistent with the differing roles of the judicial review court and the administrative decision-maker (described in paragraphs 17-18, above). In fact, many of these exceptions tend to facilitate or advance the role of the judicial review court without offending the role of the administrative decision-maker. Three such exceptions are as follows:
>
> (a) Sometimes this Court will receive an affidavit that provides general background in circumstances where that information might assist it in understanding the issues relevant to the judicial review: see, *e.g.*, *Estate of Corinne Kelley v. Canada*, 2011 FC 1335 at paragraphs 26-27; *Armstrong v. Canada (Attorney General)*, 2005 FC 1013 at paragraphs 39-40; *Chopra v. Canada (Treasury Board)* (1999), 1999 CanLII 8044 (FC), 168 F.T.R. 273 at paragraph 9. Care must be taken to ensure that the affidavit does not go further and provide evidence relevant to the merits of the matter decided by the administrative decision-maker, invading the role of the latter as fact-finder and merits-decider. In this case, the applicants invoke this exception for much of the Juliano affidavit.
>
> (b) Sometimes affidavits are necessary to bring to the attention of the judicial review court procedural defects that cannot be found in the evidentiary record of the administrative decision-maker, so that the judicial review court can fulfil its role of reviewing for procedural unfairness: *e.g*, *Keeprite Workers' Independent Union v. Keeprite Products Ltd.* (1980) 1980 CanLII 1877 (ON CA), 29 O.R. (2d) 513 (C.A.). For example, if it were discovered that one of the parties was bribing an administrative decision-maker,

> evidence of the bribe could be placed before this Court in support of a bias argument.
>
> (c) Sometimes an affidavit is received on judicial review in order to highlight the complete absence of evidence before the administrative decision-maker when it made a particular finding: *Keeprite*, *supra*.

[52] Further, as recently noted in *Suss v Canada*, 2024 FC 137 at paragraphs 4-5, exceptions to the general rule include affidavits that attach documents referenced in the statement of claim, and affidavit evidence that is admissible for the purpose of determining the Court's jurisdiction to determine a matter.

[53] I am persuaded by the Respondent that the affidavit in support of their motion attaches documents that fit within the limited exceptions for affidavit evidence on a motion to strike noted above. The affidavit includes documents referenced in the application, general background information and information pertaining to the jurisdictional issue that is necessary for this Court to determine the issues in this motion.

[54] The Courtesy Letter is not reviewable by this Court. Accordingly, it is plain and obvious that the Applicant's application does not disclose a reasonable cause of action and as such, it will not succeed and therefore, it should be struck.

V. Conclusion

[55] The Applicant has not provided a reasonable explanation for his delay in commencing his application for judicial review of the Decision. Further, the Applicant has not identified a clear

reviewable error that would warrant this Court's intervention. Accordingly, the Applicant's motion to amend his application and for an extension of time to include the Decision is dismissed.

[56] The Applicant's application seeks to challenge the Courtesy Letter. This is not a decision that is reviewable by this Court—It is plain and obvious that this application will not succeed and thus, the application will be struck.

[57] As a final note, I will add that I am mindful that the Applicant's motion was motivated in part by the letter from the Respondent's counsel, Ms. Almightyvoice. It is not clear to the Court why Counsel chose to send a letter to the Applicant that may have been read by the Applicant as a suggestion that the Applicant bring a motion to amend the application and for an extension of time, rather than seeking to have the application removed pursuant to Rule 74 of the *Rules*. Rule 74 permits the Court to remove a document that was a) not filed in accordance with the *Rules*, b) is scandalous, frivolous, vexatious or unfounded, or c) is otherwise an abuse of the process of the Court. Given the Respondent's position on the nature of the Courtesy Letter, a motion to remove the application pursuant to Rule 74 may have been a more efficient way forward.

[58] In my view, Ms. Almightyvoice's letter may have inadvertently created unrealistic expectations for the Applicant regarding the likely outcome of this motion. In these circumstances, if it were open to the Court to award costs against the Respondent, it would have done so. The Applicant is self-represented, and while I agree that the letter from the Respondent's counsel was not legal advice for the Applicant, the Respondent's counsel should

nevertheless have remained mindful of the overarching principle in Rule 3, which seeks to ensure the just and most expeditious resolution of proceedings.

ORDER in T-3836-25

THIS COURT ORDERS that:

1. The Applicant's motion for an extension of time and to amend his motion is dismissed.

2. The Respondent's cross-motion to strike the application is granted.

3. There is no order as to costs.

"Julie Blackhawk"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-3836-25

STYLE OF CAUSE: MATTHEW SALI v CANADA REVENUE AGENCY

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

ORDER AND REASONS: BLACKHAWK J.

DATED: APRIL 24, 2026

WRITTEN REPRESENTATIONS BY:

Matthew Sali	FOR THE APPLICANT (ON HIS OWN BEHALF)
Candace Almightyvoice	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Saskatoon, Saskatchewan	FOR THE RESPONDENT