

Federal Court



Cour fédérale

Date: 20260429

Docket: T-2763-24

Citation: 2026 FC 565

Ottawa, Ontario, April 29, 2026

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

BIANCA POTVIN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Bianca Potvin [the Applicant or Ms. Potvin] seeks judicial review of two decisions dated November 3, 2023 [decisions], by which the Canada Revenue Agency [CRA] denied her applications for benefits under the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB].

[2] The CRA found that the Applicant was not eligible for the CERB and the CRB because she did not stop working or have her hours reduced for reasons related to COVID-19.

[3] When assessing cases of this nature, the role of this Court on judicial review is not to determine whether or not Ms. Potvin was eligible for the benefits, but rather to determine whether the CRA's decisions are reasonable in light of the evidence and arguments made before it.

[4] For the reasons that follow, the application for judicial review is granted.

II. Background Facts

[5] Ms. Potvin applied for CERB benefits from March 15, 2020, to September 26, 2020, comprising a total of seven periods, as well as CRB benefits from September 27, 2020, to October 9, 2021, comprising a total of 27 periods. On March 17, 2023, Ms. Potvin's file was selected for an eligibility review by the CRA.

[6] For the first review, the Applicant produced (a) her 2019 Notice of Assessment and (b) her T4E Statement of employment. On September 21, 2023, the CRA concluded that she did not qualify for both benefits because the evidence provided was insufficient to demonstrate that she earned at least \$5,000 from employment or self-employment for 2019, for 2020 or for 2021 or in the 12-month period preceding the day on which the application was made (Certified Tribunal Record) [CTR] at p 4).

[7] On November 2, 2023, the Applicant requested a second review. To demonstrate her eligibility, the Applicant submitted various documents including her 2019 income tax returns establishing that she received employment insurance in the form of maternity leave benefits for the sum of \$ 9,625 (she was on maternity leave from January 2019 to January 2020), her 2020 T4A and T4E slip, her 2021 T4A slip as well as her 2019, 2020 and 2021 T1 return income (CTR at pp 5-6).

[8] On August 30, 2024, the CRA contacted Ms. Potvin to inquire about her reasons for applying for the CERB and CRB. During that call, Ms. Potvin responded that she worked for a jewelry store from 2013 until December 2018, when she went on maternity leave for a year, ending in January 2020 (CTR at p 7). The CRA officer then asked the Applicant why she did not return to her employment after the maternity benefits ended in January 2020. The Applicant responded that she did not return to work because the shopping centre where she worked was closed (CTR at p 7). When the CRA officer asked the Applicant why she did not return to work in the period between the end of her maternity leave and the closure of shopping centres in March 2020, she was unable to provide a response (CTR at p 7).

[9] At the end of the call, Ms. Potvin was given 14 days to submit (CTR at p 7):

- A record of Employment from her previous employer (one was already on file (CTR at p 68));
- Itemized statement of the maternity benefits received from the beginning to the last period;
- Matching bank statement showing all the credits of the maternity benefits received from the first payment received to the last payment received; and

- A copy of any email text or written or any other document issued by her employer regarding her job why she was not employed back after her maternity leave ended.

[10] On September 19, 2024, the CRA ruled that the Applicant had not provided the documents requested on August 30, 2024, and therefore could not establish that she stopped working or had her hours reduced for reasons related to COVID-19 (CTR at p 8).

III. Issues and Standard of Review

[11] The only issue is whether the CRA's decisions that the Applicant was ineligible for the CERB and CRB benefits are reasonable.

[12] The appropriate standard of review for a CRA officer's decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019] 4 SCR 653 [*Vavilov*] at paras 16–17; *Maltais v Canada (Attorney General)*, 2022 FC 817 at paras 18–19). The Court's role is to examine the administrative decision maker's reasoning and the outcome to which it led to determine whether the decision is “based on an internally coherent and rational chain of analysis” and justified in light of the legal and factual constraints (*Vavilov* at para 85). The burden is on the party challenging the decision to show that it is unreasonable (*Vavilov* at para 100; see also *Aryan v Canada (Attorney General)*, 2022 FC 139 at para 45 [*Aryan*]; *Hayat v Canada (Attorney General)*, 2022 FC 131 at para 15; *Kleiman v Canada (Attorney General)*, 2022 FC 762 at para 29 [*Kleiman*]). Reasonableness review is not a “rubber-stamping” exercise, it is a robust form of review (*Vavilov* at para 13; *Mason v Canada (Citizenship and Immigration)*, [2020] 2 FCR 3 at para 63). The party challenging the decision bears the onus of

demonstrating that the decision is unreasonable (*Vavilov* at para 100). Any alleged flaws must be “sufficiently central or significant to render the decision unreasonable” or cause the “reviewing court to lose confidence in the outcome reached” (*Vavilov* at paras 100, 106; *Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 (CanLII) at para 49).

IV. Analysis

[13] The Government of Canada introduced the CERB and the CRB as part of a series of measures to mitigate the impacts of the COVID-19 pandemic (*Canada Emergency Response Benefit Act*, SC 2020, c 5 [CERBA]; *Canada Recovery Benefits Act*, SC 2020, c 12 [CRBA]). Eligible Canadian residents had to apply in order to receive the benefits.

[14] Under paragraph 6(1)(a) of the *CERBA* and paragraph 3(1)(f) of the *CRBA*, one of the conditions for qualification was the cessation of employment for reasons related to COVID-19. To receive the benefits, Ms. Potvin bore the burden of proving to the CRA, on a balance of probabilities, that she met all the criteria for these benefit programs (*Cantin v Canada (Attorney General)*, 2022 FC 939 at para 15; *Fortin v Canada (Attorney General)*, 2024 FC 203 at para 15 [Fortin] citing *Ntuer v Canada (Attorney General)*, 2022 FC 1596 at para 22). The assessment of these criteria by the CRA is non-discretionary (*Vincent v Canada (Attorney General)*, 2024 FC 803 at para 33; *Fortin* at para 15 citing *Flock v Canada (Attorney General)*, 2022 FC 305 at para 23). As previously stated in *Fortin* at paragraph 16:

[16] Canada’s tax system is a self-reporting system. It assumes that the taxpayer is able to provide all relevant documentation in support of their return (*Walker v Canada (Attorney General)*, 2022 FC 381 at para 36–37 [Walker]). Accordingly, the Applicant was required to provide sufficient evidence to support her claim

(*Payette v Canada (Attorney General)*, 2023 FC 131 at para 35; *Walker* at para 55), and it was open to the CRA to request additional documentation or information from her to prove her eligibility (*Aryan* at para 34).

[15] In order to assess the reasonableness of the CRA's decision, the Court may consider the CRA's notes relating to the Applicant. These notes may be relevant as they tend to indicate part of the CRA's reasons, similarly to the Global Case Management System notes utilized by immigration officers (*Aryan* at para 22; *Kleiman* at para 9; *Sedoh v Canada (Citizenship and Immigration)*, 2021 FC 1431 at para 36; *Ezou v Canada (Citizenship and Immigration)*, 2021 FC 251 at para 17; *McClintock's Ski School & Pro Shop Inc v Canada (Attorney General)*, 2021 FC 471 at paras 26–27; *Vavilov* at paras 94–98).

[16] In this case, the Certified Tribunal Record shows that the CRA reviewed the documents and considered the explanation provided by Ms. Potvin during a telephone call with a CRA officer that occurred on August 30, 2024. During that call, Ms. Potvin explained that she was on maternity leave, that she received maternity benefits until the end of January 2020 and that she was planning to return to work at the same employment where she had been working since 2013. When the CRA officer asked the Applicant why she did not go back to work after the end of her maternity leave in January 2020, the Applicant was unable to provide any further explanation, stating only that shopping centres were closed (which was not the case until March 2020). The CRA officer then requested additional evidence to prove that the Applicant could not go back to work because of COVID-19, including specifically “A copy of any email text or written or any other document issued by her employer regarding her job [sic] why she was not employed back after her maternity leave ended” (CTR at p 7).

[17] However, the Applicant did not submit any additional documentation following that call (CTR at p 8). The CRA therefore concluded that the Applicant failed to discharge her burden to establish, on a balance of probabilities, that she stopped working or had her hours reduced for reasons related to COVID-19.

[18] Unfortunately, the CRA analysis in this case is deficient. While noting that the documents submitted by the Applicant were examined, there is no analysis of the weight attributed to those documents. The CRA reasons simply refer to the documentation filed, the notes taken during the telephone call that occurred on August 30, 2024, and then provides a conclusory statement which states that the CRA “was not able to validate and confirm the information to further support the claim” for Ms. Potvin’s eligibility for the CERB and CRB (CTR at p 8).

[19] The CRA reasons appear to demonstrate that a lot of weight was attributed to the fact that Ms. Potvin had not returned to work as soon as possible after the end of her maternity benefits at the end of January 2020. However, the reasons do not explain why this fact is relevant. Nothing precludes a mother from staying at home to nurture their child for a longer period of time, even if the maternity benefits have ended. For example, and as conceded by the Respondent during their oral arguments, even if the return to work date had been scheduled for May 1, 2020 (instead of March), and that on May 1, 2020, the Applicant’s employer was closed because of COVID-19, Ms. Potvin would have qualified for the CERB for that period, because she would have been unable to resume work for reasons related to COVID-19.

[20] In other words, the fact that Ms. Potvin did not immediately go back to work in February is irrelevant. However, the CRA officer appears to have impugned Ms. Potvin's credibility regarding her return to work scheduled for March 2020, on the fact that she failed to go back to work right after the end of her maternity benefits at the end of January 2020.

[21] Furthermore, in their Memorandum of Fact and Law (at paragraph 39) and in their oral arguments, the Respondent focussed on the fact that one of the reasons why Ms. Potvin did not return to work was because of her difficulty to find adequate daycare for her child. The Respondent relies on a timeline provided by Ms. Potvin in which she notes that in 2020, her "return to work date was being discussed when the daycare would be confirmed but COVID started and everything was put on hold" (CTR at p 101). The Respondent then relies on this Court's decision in *Kawasaki v Canada (Attorney General)*, 2025 FC 936, to support their position that the Applicant did not work because she was unable to find a daycare and that this reason alone is not sufficient to qualify the Applicant for CERB and CRB.

[22] With respect, nothing in the CRA reasons demonstrate that the issue of daycare played any role in the outcome. Other than a blanket sentence stating that the CRA officer considered all the documentation which included "a copy of a screenshot stating [the Applicant's] timelines of the events and their eligibility of Covid 19 benefits", there is no analysis or discussion on the weight attributed to the timeline. However, just like the Court, the Respondent cannot "fashion its own reasons in order to buttress the administrative decision" (*Vavilov* at para 96). Moreover, if great weight was attributed to the fact that the Applicant was seeking childcare, the reasons fail to indicate why more weight should be attributed to this factor, as opposed to the other evidence

also stated in the timeline indicating that a “return to work was being discussed” but could not be finalized because of COVID-19.

[23] In addition, the decision does not explain what weight, for example, was attributed to the Applicant’s record of employment establishing that she had been employed with her current employer since 2013 (CTR at p 68). Since there is no evidence that the Applicant resigned from her position, Ms. Potvin remained employed even though she was on maternity leave. As such, a return to work must have been contemplated after the end of Ms. Potvin’s maternity leave, which supports Ms. Potvin’s argument that she was scheduled to return to work in March but could not do so because of COVID-19. No consideration is made of that fact in the CRA reasons. An explanation as to why the record of employment carried no weight, for instance, in support of Ms. Potvin’s argument that she remained employed and therefore would go back to work in the near future, but was unable to do so as a result of COVID-19, would have been useful in assessing the reasonableness of the CRA’s decision.

[24] As a result, there are sufficient shortcomings in the CRA’s decision for the Court to lose confidence in the outcome. The CRA’s reasons are not sufficiently transparent, intelligible and justified, in relation to the legal and factual constraints including the evidence submitted by the Applicant as a whole, to support the outcome (*Vavilov* at para 85).

V. Conclusion

[25] The application for judicial review is granted. The CRA’s decision is quashed and remitted for reconsideration by a different officer; and the Applicant is entitled to provide the

documents requested by the CRA on August 30, 2024, to the extent that additional documentation exists.

[26] The parties have agreed to bear their own costs.

JUDGMENT in T-2763-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted. The CRA's decision is quashed and remitted for reconsideration by a different officer.
2. The whole without costs.

"Guy Régimbald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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