

FEDERAL COURT

BETWEEN:

Carolyn J. Preston
Applicant

and

Attorney General of Canada
Respondent**Notice of Application**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *Charlottetown*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

*June 4th, 2024*Issued by: (*Registry Officer*)

Address of local office:

Sir Louis Henry Davies Law Courts
42 Water Street
Box 2000
Charlottetown, Prince Edward Island
C1A 7N8

TO:

Canada Revenue Agency
Sudbury Tax Centre
1050 Notre Dame Ave.
Sudbury, ON. P3A 5C2

Attorney General of Canada

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D E P O S É
	6-JUN-2024	
Laura Heffernan		
Fredericton, N-B		

Application

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at **Charlottetown**.

This is an application for judicial review in respect of

Canada Revenue Agency

Canada Emergency Recovery Benefits (CERB) and Canada Recovery Benefits (CRB)

*Reference Number: C0060744691-001-45

Re: Second Review for your Canada Emergency Recovery Benefit Application (CERB)

Re: Second Review for your Canada Recovery Benefit Application (CRB)

Re: Second Review

CRA officer Della V, Canada Emergency Benefits Validation

Notice(s) dated May 7th, 2024, received by applicant May 15th, 2024

“ Based on our review you are not eligible.

You did not meet the following criteria:

-You did not earn at least \$5000 (before taxes) of employment income and / or net self employment income in 2019, 2020, or in the 12 months before the date of your application.”

and Notice(s) of Redetermination, May 16th, 2024, received by applicant on or about May 24th

The Applicant makes application for:

Canada Revenue Agency to allow the Canada Emergency Response Benefit and Canada Recovery Benefit, reversing the decision made in the second review (the determination of ineligibility), declaring the allowance of the benefits rightfully received, and rescinding the demand for repayment.

The grounds for the application are:

1) Over 14 month period since Applicant was called to review, the Canada Revenue Agency repeatedly failed to communicate information clearly in response to applicant's requests, refused to answer reasonable inquiries for essential information required by the Applicant to respond (and comply with requests) appropriately, refused to return telephone calls, provided multiple and contradicting answers and information, provided misleading information. The applicant has been unable to navigate fair procedure in this matter.

- Applicant believes the CRA failed to communicate necessary and required information, to provide clear information; agents and officers repeatedly provided contradictory, opaque, misleading and confusing information, agents and officers provided multiple answers, guidelines, made erroneous claims of Applicant's failure to respond to requests for documentation (CRA lost Applicant's submissions), made claims of Applicant's failure to respond to telephone messages,

- Reviewing agent failed to answer reasonable requests for information; explanation of terms, reasoning, parameters, Reviewing agent refused to return messages, hung up on applicant when asked for clarification and explanation, Reviewing Agent made confusing telephone calls, Reviewing agent and CRA sent contradictory misleading and confusing letters to Applicant,

- Applicant's tax representative was denied access to her file despite pre-authorization, Applicant's representative denied access to her file after second set-up of authorization, Reviewing Agent refused to return calls from Applicant's representative.

2) The CRA repeatedly published information regarding the criteria for qualification for CERB and CRB for the public's guide and use across multiple platforms, that was inconsistent- inconsistent over duration, and inconsistent with regard to programs and dates of effective periods, information that was and is confusing and misleading. CRA published criteria that were subsequently and repeatedly amended, altered, applied retroactively. Applicant has no consistent point to respond to, rather multiple points, changing time periods, and contradicting requirements from multiple sources, and is being held to meeting thresholds that are fluid, changing, and contradictory, without being given a fair opportunity to comply.

Applicant believes she proves eligibility within current criteria but cannot navigate this or be heard.

3) Canada Revenue Agency did not consider information provided by Applicant in response to demands, and made determination without regard to the documentation provided by the Applicant;

- irrefutable proof of income meeting threshold,

- secondary income (apart from the above business income meeting threshold) clearly within parameters of the definition of acceptable income, and proof thereof. (wages and grants)

- refusal to accept or consider T1 adjustment for qualifying tax year from Applicant's tax accountant, and letter from tax accountant summarizing her error in the preparation of the initial return and the revision.

This application will be supported by the following material:

a) an Affidavit filed on behalf of the Applicant; and

b) copies of all letters and written communications between Canada Revenue Agency and Applicant pertaining to CERB and CRB benefits; and

c) documents Applicant submitted to CRA in evidence of income and proving eligibility

- including summary letter to CRA from applicant's tax accountant

- affidavit from Jennifer DeCoursey, the above mentioned tax accountant, summarizing her efforts to communicate with CRA in this matter

- document from the Gazette re: Canada Emergency Response Benefit and Employment Insurance Emergency Response Benefit Remission Order: SI/2021-19

- such other material as counsel may advise and this Honourable Court permits.

The applicant requests Canada Revenue Agency to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the CRA to the applicant and to the Registry:

- All documentation that was before the CRA when it made it's decisions, communicated to applicant by letter dated May 7th, 2024

- exact copy of the initial 'guidelines for eligibility' published on the Canada Revenue Agency website, on the date of the opening of the CERB program,

- and copies of each subsequent change, iterations and amendments in both or either of, the parameters defining eligibility criteria, and the exact language used by the Canada Revenue Agency or it's official channels and partners in the communications defining the guidelines for CERB eligibility, published by the Canada Revenue Agency anywhere for the duration of the benefits program, inclusive of official news releases and parliamentary records.

- and copies of initial 'guidelines of eligibility' and each subsequent change, iterations and amendments in both or either of, the parameters defining eligibility criteria, and the exact language used by the Canada Revenue Agency or it's official channels and partners in the communications defining the guidelines for CRB eligibility, published by the Canada Revenue Agency anywhere for the duration of the benefits program, inclusive of official news releases and parliamentary records.

- a copy of all of the the communications and language published by the Canada Revenue Agency or it's official channels and partners, defining the scope of the time period the CERB program was in effect, from it's start, and all subsequent changes and amendments to the scope of the time period, including when it transitioned from CERB to CRB, in actuality, and showing any period of overlap between the programs then, during the programs, or defined retroactively.

- documents and materials defining and explaining Canada Emergency Response Benefit and Employment Insurance Emergency Response Benefit Remission Order: SI/2021-19,

June 4th, 2024

Carolyn Preston
578 St. Peter's Harbour Rd.
St. Peter's Harbour/ Morell, PE
C0A 1S0
902- 961- 2634

[SOR/2021-151, s. 22](#)