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FORM 301 Rule 301

Notice of Application

FEDERAL COURT

BETWEEN:

STEPHEN DUGANDZIC

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION TO FEDERAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENT: **Attorney General of Canada**

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 Calgary, AB.

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.

(Date)

Issued by: (*Registry Officer*)

Address of local office:

TO: **Attorney General of Canada**
Department of Justice Canada
Prairie Regional Office
601 – 606 4th Street SW
Calgary, AB, T2P 1T1

Application

1. This is an application for judicial review in respect of the decision of the Canada Revenue Agency (“**CRA**”) dated August 15, 2024 regarding:
 - (a) Canada Recovery Caregiving Benefit (“**CRCB**”): September 27, 2020 to December 18, 2021.

(the “**Decision**”)
2. The Applicant makes application for:
 - a. An Order in the nature of *certiorari* quashing the CRA’s Decision to deem the Applicant ineligible for CRCB;
 - b. A Declaration that the CRA’s Decision’s reasons were not justified, reasonable, transparent and intelligible;
 - c. A Declaration that the CRA’s decision violated the Applicant’s right to procedural fairness;
 - d. A Declaration that the CRA has committed and is engaged in an abuse of process;
 - e. An Order declining to remit the matter back to the CRA for reconsideration.
 - f. Costs on a full indemnity scale.

The grounds for the application are:

Background

3. The Applicant was a self-employed lawyer and conducted business through a professional corporation.
4. In accordance with the CRA’s eligibility criteria for CRCB related to self-employed individuals, announced in February 2021, the Applicant earned at least:
 - a. \$5,000 in gross self-employment income in 2019 or in the 12 months prior to the date of application in respect of CERB; and
 - b. \$5,000 in 2019, 2020, or in the 12 months prior to the date of application in respect of CRCB (“**Income Eligibility Criteria**”).
5. The CRA now concedes that the Applicant met the Income Eligibility Criteria for CRCB.

6. The CRCB's additional eligibility criteria were:

You were caring for your child under 12 years old or a family member who needed supervised care because they were at home for **one of the following reasons**:

- Their school, daycare, day program, or care facility was closed or unavailable to them due to COVID-19
- Their regular care services were unavailable due to COVID-19
- The person under your care was:
 - sick with COVID-19 or had symptoms of COVID-19
 - at risk of serious health complications if they got COVID-19, as was advised by a medical professional
 - self-isolating due to COVID-19

7. At all material times, the Applicant met the eligibility criteria for CRCB.

The Abuse of Process

8. The Applicant is presently being treated for several significant physical, psychological and mental health concerns, including an exacerbated brain injury, Post-Traumatic Stress Disorder, depression, anxiety, and suicidal ideation (collectively, the "**Disabilities**").

9. The Applicant was recently hospitalized between September 8 and September 11, 2024 in relation to his exacerbated Disabilities.

10. The Applicant is a lawyer and member of the Law Society of Alberta (the "**Society**").

11. The Applicant has been involved in human rights litigation before the Human Rights Tribunal of Alberta against the Society, which included a protracted and significantly delayed trial between May 2023 and February 2024 (the "**Litigation**").

12. As part of the Litigation's pre-hearing disclosure, on January 19, 2023 the Applicant's legal counsel served the Society with an economic loss report from a financial expert dated January 17, 2023 (the "**Economic Loss Report**").

13. The Applicant's Economic Loss Report tangentially detailed the Applicant's receipt of CRCB, CERB and CRB benefits in 2020 and 2021.

14. The Applicant's Economic Loss Report was subject to an implied undertaking of confidentiality.

15. The Society, its instructing officer in the Litigation, Sharon Heine, and the Society's insurer, the Canadian Lawyers Insurance Association, thereafter breached the implied undertaking of confidentiality that the Applicant's Economic Loss Report was subject to and falsely reported the Applicant to the CRA in connection with his receipt of CRCB, CERB and CRB benefits in 2020 and 2021. This was undertaken as a component of the Society's Litigation defence strategy, and in bad faith as a collateral attack intended to cause the Applicant further legal, financial and medical harm, and in an effort to bolster the Society's defence on the merits in the Litigation.
16. Throughout the Litigation, the Society has falsely alleged that the Applicant's legal practice earned no income in 2019 and 2020, and it peddled the same false narrative to the CRA in its false report(s) made against the Applicant to the CRA in January and February 2023 after its receipt of the Applicant's Economic Loss Report.
17. The Society, its legal counsel from Field LLP, its insurer, and Sharon Heine's malicious conduct, including, among other things, their breach of the implied undertaking and false reporting of the Applicant to the CRA, is subject to a legal action now before the Court of King's Bench of Alberta in Action No. 2401-07294.
18. The CRA's ongoing and continuing conduct is a material component of the Society's ongoing abuse of process and collateral attacks. The CRA has been made a party to the same.

The CRA's First Contact

19. One month after the Society's receipt of the Applicant's Economic Loss Report, on February 27, 2023, the CRA's Canada Emergency Benefits Validation Department contacted the Applicant seeking proof of earnings over \$5,000 in respect of CERB, CRB and CRCB benefits paid in 2020 and 2021. In particular, with respect to proof of income earned from self-employment, the Applicant was requested to provide any of the following:
 - a. invoices for services rendered that includes the service date, who the service was for, and the name of the individual or company;
 - b. receipt of payment for the service or services provided;
 - c. documents showing income earned from a "trade or business" as a sole proprietor, an independent contractor, or a partnership; or
 - d. any other document that provided confirmation that the Applicant earned \$5,000 in self employment income.
20. Immediately on February 27, 2023, the Applicant provided the CRA's Canada Emergency Benefits Validation Department with the following, as requested:
 - a. 2019 and 2020 T1s directly from his Chartered Professional Accountant; and
 - b. 2020 professional corporation invoices for services rendered.

The Second Contact – Change in Position

21. On March 16, 2023, the CRA's Canada Emergency Benefits Validation Department then contacted the Applicant again, this time claiming that the Applicant was ineligible for different reasons as follows:
 - a. in respect of CERB: "*you did not stop working or have your hours reduced for reasons related to COVID-19*";
 - b. in respect of CRB: "*you were not working for reasons unrelated to COVID-19*"; and
 - c. in respect of CRCB: "*you were not employed or self-employed on the day before your first application period.*"
22. Having received the Applicant's proof of earnings over \$5,000 for each of the eligibility periods on February 27, 2023, the CRA then changed its position, arbitrarily, to allege the Applicant was nevertheless ineligible on other grounds.

Response and Request for Second Review

23. On April 2, 2023, the Applicant responded to the CRA's March 16, 2023 change in position and arbitrary *moving of the goalposts*. In so doing, the Applicant provided the CRA with a cogent explanation showing how and why he remained eligible for all of CERB, CRB and CRCB.
24. Together with the cogent explanation provided by the Applicant to the CRA on April 2, 2023, the Applicant formally made a Request for a Second Review, setting out the CRA's misapprehensions of fact and evidence.
25. In addition, the Applicant's April 2, 2023 correspondence put the CRA on formal notice of the Society's collateral attack and unlawful conduct, which the CRA did not ever respond to or address.

The Second Review

26. Coinciding with the Litigation's ongoing trial, and the Applicant's exacerbated Disabilities caused by the Society's conduct, on September 18 and September 19, 2023, the Applicant was contacted via telephone by an agent in the CRA's Validation Department ("**Agent**") in connection with the Applicant's Request for a Second Review submitted 5.5-months earlier on April 2, 2023.
27. On September 20, 2023, the Applicant responded to the Agent's voice messages and advised the Agent by telephone that due to the Applicant's then medical condition and disability status, the Applicant was not in a position to respond to sensitive tax matters over the telephone. The Applicant requested reasonable accommodation in having the

Agent summarize his questions for the Applicant in writing, and to provide them to the Applicant for response by way of either electronic mail through the CRA's secure online portal or via letter mail.

Refusal to Accommodate

28. Without explanation, the Agent refused the Applicant's request for reasonable accommodation, notwithstanding being informed that the Applicant had a disability that required accommodation. The Agent simply informed the Applicant that he would not be communicating with the Applicant in writing and that if the Applicant didn't respond to the Agent's questions via telephone, the Agent would be closing the Applicant's file and dismissing the Request for a Second Review without further consideration.
29. Despite the request for reasonable accommodation on September 20, 2023, and despite being made aware that the Applicant was suffering from disability, the Agent continued to attempt contact with the Applicant via telephone in the following days. The Applicant again requested reasonable accommodation in communicating in writing, and specifically requested that the Agent cease contact via telephone due to his Disabilities.
30. On September 23, 2023, the Applicant communicated his concerns to the CRA via letter correspondence and offered to provide medical documentation relating to the need for reasonable accommodation.
31. The Applicant did not receive any response to his September 23, 2023 letter correspondence from the CRA, whatsoever.
32. On November 1, 2023, the CRA closed the Applicant's file and dismissed the Applicant's Request for a Second Review purportedly on the basis that the Applicant failed to provide proof of earnings over \$5,000 in each of the eligibility periods respecting CERB, CRB and CRCB.

The First Judicial Review Application

33. On November 27, 2023, the Applicant filed an application for judicial review in respect of the CRA's November 1, 2023 decision cited as T-2570-23 ("**Judicial Review Application #1**").
34. In Judicial Review Application #1, the Applicant alleged that the CRA's November 1, 2023 decision was unreasonable. The Applicant further alleged that the CRA failed to accommodate his Disability-related needs, constituting a breach of procedural fairness, which denied the Applicant his right to be heard.
35. Among other things, the Applicant sought an Order from the Federal Court in the nature of *certiorari* quashing the CRA's November 1, 2023 decision to deem the Applicant ineligible for CERB, CRB and CRCB.

36. On December 27, 2023, the Applicant confirmed his position in writing to Kerrin Rodrigues, legal counsel for the Attorney General of Canada, Department of Justice, Prairie Region:

My position remains that on the facts and evidence, the Court will quash your client's decision on substantive review in accordance with ***Canada (Minister of Citizenship and Immigration) v Vavilov***, 2019 SCC 65 (Vavilov).

As the Court in *Vavilov* held at para 142: [...]

The particular outcome in this matter is **inevitable**. My income definitively establishes eligibility, as confirmed by my personal banking documentation showing receipt of funds from my PC for services performed. Being one of the "limited" circumstances, there is no "useful purpose" in subjecting a disabled taxpayer to another round of review by an administrative agency that has already overlooked the requisite information, on two separate occasions, all of which is in complete answer to the information contained in your client's s. 317 Records, among others, as follows: ...

Had representatives of your client -- *at any time* -- asked for clarification or for personal banking documentation, it would have been made abundantly clear. Your client made a conscious decision not to.

As such, I am prepared to see the matter through the judicial review process in seeking an order quashing your client's decision with costs. My affidavit will be filed and provided in accordance with the Rules in January 2024, and I'll be seeking dates to cross-examine your client's representative.

37. The Applicant made it clear to counsel for the Attorney General of Canada, Kerrin Rodrigues, that he believed the circumstances were appropriate to justify the relief sought of not having the matter remitted back to the CRA for reconsideration and redetermination.

38. On January 18, 2024, Kerrin Rodrigues was reminded of the Applicant's declining health, which she acknowledged.

39. Given the Applicant's decompensated and exacerbated medical state, on January 26, 2024, and again on February 6, 2024, the parties entered into a consent order for the extension of time for the filing of the Applicant's affidavit. The consent order was granted by the Associate Judge Coughlan of the Federal Court of Canada on February 20, 2024, whom accepted the Applicant's explanation and Disability-related needs.

40. February 20, 2024, the Applicant swore an affidavit providing evidence in support of his allegations ("**Judicial Review #1 Affidavit**"). In particular, paragraphs 40-47 of the Judicial Review #1 Affidavit specifically addressed the Society's role in the matter:

41. In late January 2023, the LSA's instructing officer, Sharon Heine ("**Ms. Heine**"), Senior Manager, Regulation, was served, confidentially, with an expert report detailing my economic loss and lost income in regard to damages claimed in the human rights action. Incidentally, the expert report showed my receipt of COVID-19 Benefits in 2020 and 2021. The expert report was prepared by Melanie Russell CPA, CA, CBV, CIM, CFE, CFF,

ABV, of Kalex Valuations in Toronto (the “**Kalex Report**”).

42. Ms. Heine has admitted under oath in the human rights proceedings to having shared confidential information about me with third parties as part of a collateral attack led by her insurer... in its litigation and human rights defence strategy. Ms. Heine has falsely characterized these efforts, under oath, as a “professional courtesy”. Ms. Heine, her employer, the LSA, and their insurer have done so as part of their efforts to cause me further harm, hardship and mischief. In my view, this instance with the CRA is no different.
43. Given Ms. Heine’s admitted actions in improperly sharing confidential information with third parties throughout the human rights process, I do verily believe that the CRA’s February 27, 2023 inquiry -- a mere three weeks after Ms. Heine’s confidential receipt of the Kalex Report – was no coincidence. To be clear, I believe Ms. Heine, in concert with the LSA and their insurer, notified the CRA sometime immediately after her receipt of the Kalex Report in January or February 2023 and falsely reported me to the CRA, stating that I was not eligible for COVID-19 Benefits and to commence an investigation regarding the same.

[...]

45. Given the incontrovertible facts and admissions, and the timing of it all, I believe the CRA’s investigation commencing February 2023 was a weaponization of the CRA’s process. It was collaterally motivated to cause me more mischief, hardship and harm, and an attempt to improperly elicit financial information for use by Ms. Heine, the LSA and their insurer in a parallel, unrelated civil proceeding that was then underway. It is an abuse of the CRA’s process, and the CRA has capitulated to Ms. Heine’s campaign of further harassment and abuse. The matter is exceptionally concerning to me on multiple levels.
 46. After confidentially receiving the Kalex Report in late January 2023, Ms. Heine, the LSA and their insurer sought to make a false complaint about me and to convert the CRA’s process into a civil litigation weapon. It would seem to be an astonishing coincidence otherwise. Ms. Heine, the LSA and their insurer, in effect, attempted to have the CRA deploy its considerable statutory powers and resources against me to assist them in their civil dispute. Ms. Heine and the LSA’s interests are aligned with a determination by the CRA of my ineligibility for COVID-19 Benefits. I believe it is vexatious, retaliatory and undertaken for an improper, collateral purpose.
41. On February 20, 2024, Kerrin Rodrigues was served with the Applicant’s Judicial Review #1 Affidavit. Kerrin Rodrigues, on behalf of the Attorney General of Canada, immediately confirmed and acknowledged her receipt to the Applicant.
 42. On February 27, 2024, Kerrin Rodrigues, on behalf of the Attorney General of Canada, advised the Applicant that she had obtained instructions not to cross-examine the Applicant on his Judicial Review #1 Affidavit.
 43. On February 27, 2024 and March 1, 2024, the Applicant requested that Kerrin

Rodrigues confirm whether the Attorney General of Canada intended to file a responding affidavit, so that the parties could schedule any necessary cross-examination in relation thereto.

44. On March 1, 2024, Kerrin Rodrigues confirmed for the Applicant that the Attorney General of Canada would not be filing any responding affidavit.

45. On March 1, 2024, the Applicant advised Kerrin Rodrigues that he intended to seek “expedited dates” in having the Judicial Review Application #1 set down and heard on the merits due to the impact of the process on his declining health and Disabilities.

46. Four days later on March 5, 2024, Kerrin Rodrigues’ legal assistant sent the Applicant an email:

Further to the above-noted matter, please find enclosed for service upon you the Respondent’s motion record.

47. The “motion record” referred to and attached in the March 5, 2024 email was in fact a fresh Notice of Motion from Kerrin Rodrigues on behalf of the Attorney General of Canada, seeking to have the Applicant’s Judicial Review Application #1 proceed on the basis of written representations alone.

48. The single attachment to the March 5, 2024 email was entitled “Respondent’s Motion Record”, not “Notice of Motion”, and contained not only the Motion Record but also a Notice of Motion.

49. In the Attorney General of Canada’s Notice of Motion, deceptively buried in the March 5, 2024 attachment entitled “Respondent’s Motion Record”, the Attorney General of Canada conceded that the Applicant’s right to procedural fairness had been violated in regard to its November 1, 2023 decisions, decisions which it further conceded were unreasonable.

50. There had been no prior discussion of a fresh motion or application between the parties, nor was it made clear to the Applicant in the March 5, 2024 email from Kerrin Rodrigues’ assistant that a fresh application or motion had been made.

51. The Applicant was generally unfamiliar with the Federal Court of Canada process and terminology, which Kerrin Rodrigues was aware of. The Applicant was misled and deceived and believed the March 5, 2024 email and attachment from Kerrin Rodrigues’ assistant was simply the Attorney General of Canada’s motion record in regard to the Judicial Review Application #1 on the merits, and had no reason to believe otherwise.

52. As known by Kerrin Rodrigues, the Applicant was in a state of medical crisis and had no reason to believe that the Attorney General of Canada had made a fresh application or motion requiring his response.

53. Beyond the Applicant's decompensated medical state, an immediate family member was in hospital with cancer. The Applicant was entirely preoccupied and did not open the attachment to the March 5, 2024 email, containing the Attorney General of Canada's fresh notice of motion, believing it to be the Attorney General of Canada's motion record in regard to the Judicial Review Application #1 on the merits.

54. The Applicant did not respond to the Attorney General of Canada's March 5, 2024 Notice of Motion because he was unaware that the March 5, 2024 attachment, entitled "Respondent's Motion Record", in fact contained a Notice of Motion.

55. On April 11, 2024, the Applicant was entirely surprised to receive a decision from the Federal Court of Canada granting the Attorney General of Canada's motion, referring the applicant's CERB, CRB, and CRCB applications back to the CRA for reconsideration and redetermination ("**April 11 Decision of the Federal Court**").

56. In the April 11 Decision of the Federal Court, Justice Pallotta was "satisfied that the alleged errors, conceded by the respondent, warrant the Court's intervention to set aside the decisions."

57. The Applicant immediately advised Kerrin Rodrigues of his concerns surrounding her conduct:

Be advised that due to unforeseen circumstances, I did not have any opportunity to respond to your motion.

In the coming days, a motion will be filed in that regard seeking to have this decision set aside.

Your sharp practice is duly noted.

58. Kerrin Rodrigues, on behalf of the Attorney General of Canada, had sent the Applicant no less than 25 email communications of a substantive nature since the Judicial Review Application #1 had been filed by the Applicant. Consistent with his Disability-related needs, the Applicant had requested telephone communications with Kerrin Rodrigues, which were refused.

59. On April 17, 2024, the Applicant further requested of Kerrin Rodrigues that all further written communications be provided to the Applicant via lettermail, rather than email, a reasonable request that was similarly refused:

Given what's occurred, I'm going to ask you to mail all further correspondence to my attention and cease sending substantive things via email.

60. Given the Applicant's deteriorated health, the Applicant elected not to appeal the April 11 Decision of the Federal Court, made without his submissions, and elected to proceed with a reconsideration and redetermination before the CRA.

Reconsideration and Redetermination

61. On June 4, 2024, the Applicant consented to 1 hour and 42-minute telephone call with a CRA agent from the Canada Emergency Benefits Validation Department in regard to the reconsideration and redetermination of the CRA's November 1, 2023 decisions deeming the Applicant ineligible for CERB, CRB and CRCB ("**June 4 Agent Discussion**"). The June 4 Agent Discussion was recorded and provided the necessary context for CRA's reconsideration and redetermination.

62. During the June 4 Agent Discussion, the CRA agent referred to the Applicant's April 2, 2023 submission, previously overlooked by the CRA in its November 1, 2023 decisions, and was made aware of the ongoing medical impact to the Applicant, as well as the Society and Sharon Heine's role in it. The Agent, sympathetic to the Applicant's Disabilities and impacts to them, assured the Applicant it would all be resolved soon.

63. After a lengthy discussion, several questions and requests for documentation arose from the June 4 Agent Discussion ("**Reconsideration Questions**"):

a) **2019 Bank Statements**

b) **Work History 2019-2021**

- i. Business Start Date
- ii. Business License # and GST #
- iii. Full-Time or Part-Time
- iv. Hours
- v. Days of Work
- vi. Home-based business or office-based
- vii. Website and Social Media
- viii. Finding Customers / Referrals
- ix. Companies / Industry
- x. How you paid yourself
- xi. Method of payment
- xii. Invoicing
- xiii. Why dividends are paid at different times
- xiv. Weekly/Monthly Sales Revenue
- xv. How COVID-19 affected things

64. The Agent accepted the Applicant's explanation regarding CRCB, as outlined in the Applicant's April 2, 2023 submission, and requested no further information, documentation, evidence, or explanation from the Applicant in regard to his eligibility thereto. The Reconsideration Questions focused exclusively on the Income Eligibility Criteria.

65. Had the Agent requested anything further from the Applicant in respect of CRCB eligibility, the Applicant would have provided the same.

66. On July 13, 2024, the Applicant provided all information requested of him in the Reconsideration Questions resulting from the June 4 Agent Discussion (“**July 13, 2024 Reconsideration Submission**”).

67. Subsequently, the Applicant heard nothing further from the Agent, nor from any representative of the CRA’s Canada Emergency Benefits Validation Department, whether regarding any requests for follow-up information or at all.

68. In the July 13, 2024 Reconsideration Submission, the Applicant specifically advised the CRA:

The Agent Discussion was recorded and provides the necessary context for this response. For greater certainty, the substance of the Agent Discussion, and information provided, is referentially incorporated into this response and forms part of the same. [...] To the extent that the CRA requires reference to this information, the CRA is encouraged to listen to the recorded Agent Discussion, which is on file.

Given the extent of the Agent Discussion, including the extent of information provided to the Agent, beyond the responses to the specific questions posed by the Agent and requests for documentation provided herein, nothing further will be provided. All other information was provided to the Agent during the Agent Discussion and remains on record

69. On August 15, 2024, the CRA issued three adjustment and redetermination letters to the Applicant:

1. **CERB**: “After receiving your request of May 21, 2024, for a second review, we have carefully considered the information you provided to support your CERB eligibility.

We have accepted your application based on the information you provided to support your CERB eligibility.”

2. **CRB**: “After receiving your request of May 21, 2024, for a second review, we have carefully considered the information you provided to support your CRB eligibility.

We have accepted your application based on the information you provided to support your CRB eligibility.”

3. **CRCB**: “We are writing to advise you of our decision regarding your request dated May 21, 2024, for a second review of your Canada Recovery Caregiving Benefit (CRCB) application.

We have completed our review and have carefully considered all the information available. We have determined you are not eligible for the Canada Recovery Caregiving Benefit (CRCB).

Based on our review, you are not eligible for the following reason(s):

- Your scheduled work week was not reduced by at least 50% because you were caring for a family member for reasons related to COVID-19.”

(“**August 15, 2024 Reconsideration Decision**” and the “**Decision**”)

The Decision was Unreasonable

70. On August 15, 2024, the CRA unreasonably determined that the Applicant’s work week was not reduced by at least 50% between September 27, 2020 and December 18, 2021 because he was caring for a family member for reasons related to COVID19, and that the Applicant was therefore ineligible for CRCB. The CRA fundamentally misapprehended and failed to account for the evidence before it, and has done so repeatedly in the Applicant’s case, now requiring two applications for judicial review.
71. On April 2, 2023, the Applicant fulsomely addressed the issue in his submission, and during the June 4 Agent Discussion, it was yet again fulsomely addressed and clarified. The Agent accepted the Applicant’s submissions, and required nothing further from the Applicant by way of information, documentation, evidence, or explanation, as was reflected in the Reconsideration Questions which focused exclusively on Income Eligibility Criteria.
72. The Applicant was never asked to provide anything further, or to otherwise clarify. The CRA’s August 15, 2024 Reconsideration Decision is silent with respect to its reasons and basis for why or how it overlooked the Applicant’s provision of information on April 2, 2023 concerning CRCB, further clarified and accepted by the Agent on June 4, 2024, demonstrating that the Applicant met the eligibility criteria for CRCB. The CRA’s reasons did not meaningfully grapple with any of the Applicant’s submissions or central arguments before it in this regard, whether those made on April 2, 2023 or reiterated on June 4, 2024.
73. The Applicant had received medical advice from his physician in 2020 and 2021, medical advice and directions which were followed by the Applicant and in compliance with the CRCB eligibility criteria. There is a documented record of the same. There is no logical evidentiary basis for the CRA to have concluded otherwise. The Applicant was clearly eligible for CRCB.
74. As was the case in respect of its November 1, 2023 decision, the CRA’s August 15, 2024 Reconsideration Decision deeming the Applicant ineligible for CRCB is substantively unreasonable, not justified and unintelligible. No reasons are provided and the August 15, 2024 Reconsideration Decision lacks internal logic. No rational chain of analysis is provided or otherwise engaged in. A single conclusory sentence on eligibility, particularly without evidence on the record to support it, suggests that the CRA’s analysis is wanting, which is problematic.
75. The CRA’s August 15, 2024 Reconsideration Decision deeming the Applicant ineligible for CRCB is entirely unreasonable.

Breach of Procedural Fairness

76. As was the case in respect of its November 1, 2023 decision, the CRA's August 15, 2024 Reconsideration Decision was procedurally flawed, deficient and did not comply with principles of natural justice and procedural fairness.
77. The CRA's June 4 Reconsideration Questions did not ask the Applicant for information, documentation, evidence, or further explanation from the Applicant with regard to whether the Applicant's work week was reduced by at least 50% between September 27, 2020 and December 18, 2021 because he was caring for a family member for reasons related to COVID19. Had it been requested from him, the Applicant would have provided the same as part of his July 13, 2024 Reconsideration Submission.
78. During the June 4 Agent Discussion, the Agent had indicated to the Applicant that his explanation provided was accepted, all of which is reflected in the call recording which the Applicant's July 13, 2024 Reconsideration Submission expressly incorporated and adopted. This is further supported by the fact that the Reconsideration Questions focused exclusively on Income Eligibility Criteria that the CRA now concedes were satisfied by the Applicant, after having previously unreasonably concluded otherwise on November 1, 2023 due to its improper review of the record and submissions from the Applicant, and its violation of the Applicant's right to procedural fairness which the CRA conceded in March 2024.
79. In so doing, the CRA denied the Applicant any ability to be heard and make submissions on the issue before rendering its August 15, 2024 Reconsideration Decision. The August 15, 2024 Reconsideration Decision was procedurally unfair.
80. After 1.5 years of its administrative handling and significant prejudice to the Applicant, declining to remit the matter back to the CRA is appropriate in these exceptional circumstances on multiple bases, including:
- i. ensuring an efficient use of public resources;
 - ii. preventing an "endless merry-go-round of judicial reviews";
 - iii. ensuring that a timely and effective resolution is not stymied;
 - iv. the inevitability of the outcome;
 - v. the urgency associated with the Applicant's medical conditions and Disabilities;
 - vi. concerns for ongoing delay, procedural fairness and abuse of process;
 - vii. the fact that the CRA has repeatedly engaged in flawed consideration and review of the Applicant's case, after having many genuine opportunities to weigh in and get it right.

This application will be supported by the following material:

The Affidavit of Stephen Dugandzic, sworn February 20, 2024 which includes the following documentary exhibits and evidence:

1. Letter correspondence from the CRA dated February 27, 2023;
2. Response submission of S. Dugandzic dated February 27, 2023;
3. Letter correspondence from the CRA dated March 16, 2023;
4. Response and Request for a Second Review of S. Dugandzic dated April 2, 2023;
5. Letter correspondence from S. Dugandzic dated September 23, 2023;
6. Telephone records and notes to file, September 2023;
7. Decision Letter from CRA dated November 1, 2023.

A Supplemental Affidavit of Stephen Dugandzic which will include, among other things, the following documentary exhibits and evidence:

1. Letter correspondence from the CRA dated May 30, 2024;
2. Telephone records detailing the June 4 Agent Discussion;
3. The Applicant's July 13, 2024 Reconsideration Submission;
4. The CRA's August 15, 2024 Reconsideration Decision;
5. The CRA's August 15, 2024 reconsideration decisions re: CERB and CRB;
6. Email communications with Kerrin Rodrigues on behalf of the Attorney General;
7. The Applicant's Judicial Review Application #1 dated November 27, 2023;
8. The Attorney General of Canada's March 5, 2024 "Motion Record";
9. The April 11, 2024 Decision of the Federal Court;
10. Letter correspondence from the Applicant's psychologist dated July 17, 2024;
11. Letter correspondence from the Applicant's treating physician dated July 15, 2024;
12. Letter correspondence from AHS Psychiatry dated September 9, 2024;
13. Letter correspondence from the Applicant's family physician dated August 19, 2024;
14. Transcripts of the cross-examination of Sharon Heine taken before the AHRT;
15. Transcripts of the cross-examination of Karl Seidenz taken before the AHRT.¹

September 15, 2024



Stephen Dugandzic

587-894-1152

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¹ The Applicant intends to file a notice of motion seeking leave to introduce the cross-examination transcripts as part of the hearing of the application.