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**FORM 301 Rule 301  
Federal Court of Canada  
Notice of Application**

Court File No.: \_\_\_\_\_

BETWEEN:

**MICHELLE SARAH MATTA**

Applicant

-and-

**ATTORNEY GENERAL OF CANADA**

Respondent

APPLICATION UNDER section 18.1 of the **Federal Courts Act**, RSC, 1985, c-F-7 (the “**Federal Courts Act**”) and Rule 301 of the **Federal Court Rules**, 1998 (the “**Federal Court Rules**”).

**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 the Federal Court, Toronto, Ontario.

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.

May 24th, 2024

Issued by:

TO:

Department of Justice- Attorney General of Canada  
120 Adelaide Street West  
Suite 400  
Toronto, Ontario  
M5H 1T1

## Application

This is an application for judicial review, under the Federal Court Act, in respect of a recent decision from Canada Revenue Agency, Canada Emergency Response Benefit by officer John C, Canada Emergency Benefits Validation.

The second review denial of Canada Emergency Response benefits against the applicant, Michelle Sarah Matta was made on May 8, 2024, Reference number C0068444999-001-45.

### The applicant makes application for:

As per the guidelines from Canada Emergency Response benefits during the benefit period, the applicant, Michelle Sarah Matta is fully eligible for all periods (periods 2, period 3, period 5, and period 6) and seeking a judicial review on the denial of the second review for:

- a) An order quashing the decision as unreasonable and/or incorrect, and replacing it with a decision allowing the applicant to be fully eligible for all periods of CERB (periods 2,3,5,6);
- b) An order declaring that the Canada Emergency Benefits Validation officer, John C, made procedural errors and did not consider the applicants evidence;
- c) A decision giving full eligibility to the applicant to be eligible for period 2 and 3 based on ambiguity of the Government and the applicants due diligence. This is based on the fact and evidence presented by the applicant to the officer (screenshot from Government of Canada Website, timestamped: April 22, 2020) indicating (“\$1000 in employment or self employment income”). There was no indication of the words gross or net income, which makes it ambiguous and open to multiple interpretations. The applicant made \$998 net for periods 2 and 3 and therefore is asking for a decision to be declared eligible;
- d) A decision giving full eligibility to the applicant to be eligible for periods 5 and 6 based on the fact that COVID-19 impacted and lowered insurable hours due to school closures and therefore did not have enough hours to claim EI for the summer months. If COVID-19 did not happen, the applicant would have had enough EI insurable hours to make a claim (as per every school year). However, since schools were closed during COVID-19 and the applicant was only in a .20 teaching contract, the applicant did not have enough insurable hours to claim EI. The applicant did provide an ROE and a screenshot of the Service Canada EI website to the CRA officer, John C, proving that not enough hours and an EI claim was NOT made;
- e) A decision made that the applicant should not be penalized and held responsible for the evolving grounds of CERB eligibility. The applicant should only be responsible for the information that was given at that time

and not be held responsible for the evolving rules and grounds for eligibility after the benefit period claimed;

- f) Costs of this application;
- g) Interest on the applicants tax returns that are being held from 2022 and 2023;
- h) Costs of 1 days pay, \$375, for the applicant taking a day off work to go to the Federal Court on May 23rd, 2024, in order to gather accurate information on how to submit form 301;
- i) Parking cost of \$10 when the applicant had to go to the Federal Court on May 23, 2024 to gather accurate information;
- j) Any legal fees should the applicant assign counsel at any point during this judicial review
- k) Such further and other relief as this Honourable Court deems to be just and appropriate.

### **The grounds for the application are:**

The Decision constitutes an error in law, procedural errors, and is unreasonable, and otherwise amounts to reviewable errors in the following ways:

- a) The Canada Emergency Benefits Validation officer, John C, failed to consider the applicants evidence (screenshot of Government of Canada website, timestamped April 22, 2020 to backup eligibility of CERB periods 2 and 3, Record of Employment proving not enough insurable hours, and screenshot of Service Canada EI website proving that I did not apply for EI during CERB period 5 and 6);
- b) For periods 2 and 3 the applicant made \$998 net income. Based on the ambiguity and lack of information from the Government website at that time, the applicant has a screenshot, timestamped, indicating the eligibility criteria for CERB at that time ("\$1000 in employment or self employment income"). There was no indication of the words net or gross income. Therefore, the applicant should be declared eligible based on the information and evidence provided;
- c) For period 5 and 6, the applicant lost insurable hours during the school closure during COVID-19 (March 2020 onwards). The applicant worked at Peel District School Board as an occasional teacher (supply) and Long term Teacher (contract). Before COVID-19, the applicant held a .20 contract and supply taught for the remainder of the time. After COVID-19, schools closed and therefore this impacted the applicant's insurable hours as she was only working her .20 contract and was not able to supply teach to supplement her income. The Canada Emergency Benefits Validation officer, John C, failed to consider the evidence provided of loss of insurable hours for EI and the fact that COVID-19 impacted and reduced the applicant's hours. Since there was not enough insurable hours to apply for EI, due to

- COVID-19 (as what the applicant would have usually done in the summer months), the applicant is therefore eligible for periods 5 and 6;
- d) The Canada Emergency Benefits Validation officer, John C, failed to balance the evidence provided by the applicant and the rights to equality and freedom from discrimination under section 15 (1) of the Charter, with relevant statutory objectives, in a proportionate way;
  - e) The Canada Emergency Benefits Validation officer, John C, failed to indicate specific reasons to support his denial decision based on the applicants evidence submission and telephone conversations;
  - f) The Canada Emergency Benefits Validation officer, John C, decision was unreasonable and or incorrect in its failure to properly consider the applicant's personal and financial circumstances and how COVID-19 impacted the applicant's income.

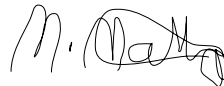
**This application will be supported by the following material:**

- a) This Notice of Application;
- b) The Affidavit of Michelle Sarah Matta along with exhibits;
- c) The second review decision letter from CRA, Canada Emergency Benefits Validation officer, John C;
- d) Such further and other material as counsel may advise and this Honourable Court may allow.

The applicant requests Attorney General of Canada 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 Canada Revenue Agency, Canada Emergency Benefits Validation, to the applicant and to the Registry:

- a) Telephone recordings of all second review phone calls between officer John C and the applicant;
- b) Documents of all the evolving rules for eligibility from March 2020 to present;
- c) Any other materials or documents relied on by the officer, John C, Canada Emergency Benefits Validation, in arriving at the decision, including but not limited to any documents submitted by the applicant.

Dated at Toronto, Ontario this 24th day of May 2024.



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