

Federal Court



Cour fédérale

Date: 20251125

Docket: T-2474-24

Citation: 2025 FC 1873

Ottawa, Ontario, November 25, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

MA. MARIBEL ACEVEDO VIRGEN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of a decision (the “Decision”) by a Canada Revenue Agency (the “CRA”) appeals manager (the “Appeals Manager”) made on behalf of the Minister of National Revenue (the “Minister”). The Decision confirmed the suspension of the Applicant’s participation in the CRA’s electronic filing program (“EFILE”).

[2] For the reasons that follow, the application for judicial review is dismissed.

II. Background

[3] The Applicant, who is self-represented, is a tax preparer who previously had access to EFILE. EFILE allows authorized participants to file certain tax returns electronically.

[4] The EFILE Helpdesk suspended the Applicant's EFILE privileges in October 2021. In March 2022, the CRA concluded an administrative review and confirmed the Applicant's EFILE suspension (the "First Decision"). The First Decision was based on the EFILE suitability screening criteria described as Criterion 13, which concerns fraud, dishonesty, breach of trust, or other conduct of a disreputable nature. The Applicant sought judicial review of the First Decision. On November 15, 2022, this Court allowed that application, set aside the First Decision, and ordered a redetermination by a different decision maker (*Virgen v Canada (Attorney General)*, 2022 FC 1544).

[5] Following that judgment, the CRA assigned a different appeals officer (the "Appeals Officer") who had not participated in the First Decision. The Appeals Officer invited new submissions from the Applicant, and the Applicant provided new submissions to the CRA:

(a) 20 pages sent by fax; and

(b) a 199-page package dated March 26, 2024, sent by mail and received by the CRA on April 8, 2024.

[6] On May 30, 2024, the Appeals Officer sent the Applicant a proposal letter (the “Proposal Letter”). The Proposal Letter set out the Appeals Officer’s preliminary analysis, focused on the Applicant’s continued use of EFILE to electronically file returns for individuals the CRA considers “excluded” from electronic filing, including certain temporary foreign agricultural workers and certain deemed residents, and proposed to uphold the suspension of the Applicant’s EFILE privileges. The Proposal Letter invited the Applicant to make further submissions by June 28, 2024.

[7] On June 21, 2024, the Appeals Officer and the Applicant spoke by telephone. According to the Appeals Officer’s notes, he told the Applicant that his review was not based on Criterion 13. He advised the Applicant that he was concerned that she continued to file electronically for excluded taxpayers and that this conduct could justify maintaining the suspension. During that call, the Appeals Officer reiterated that the Applicant could make additional submissions by June 28, 2024.

[8] The Applicant did not provide further supporting documents by June 28, 2024. On June 24, 2024, the Applicant sent a letter to the CRA requesting a 30-day extension of time to make additional submissions. The CRA did not respond to her request. In a July 26, 2024, letter to the Appeals Officer, the Applicant:

(a) noted that the Appeals Officer did not respond to her June 24, 2024, extension request;

(b) referred to prior CRA correspondence;

(c) requested that the Appeals Officer accept new information;

(d) asked to have her EFILE privileges reinstated; and

(e) requested that the Appeals Officer's decision be postponed until the Tax Court issued its ruling in a related matter.

[9] On August 20, 2024, the Appeals Officer contacted the Applicant by phone. During the call, the Appeals Officer:

(a) asked the Applicant whether she had submitted any additional documents to the CRA between the letters dated June 24, 2024, and July 26, 2024, and the Applicant replied that she had not;

(b) reminded the Applicant that he had been away in July and that his department did not receive the June 24, 2024, letter until July 3, 2024, when he was out of the office;

(c) noted that the Applicant's July 26, 2024, letter did not include any further documentation; and

(d) advised the Applicant that the decision had been sent for review and that her file would be closed.

[10] The Appeals Officer's written report and recommendation went to the Appeals Manager, who made the Decision on behalf of the Minister. On August 21, 2024, the Appeals Manager issued the Decision and enclosed a working paper that addressed the Applicant's April 8, 2024, submissions.

III. The Decision

[11] The Decision confirms the continued suspension of the Applicant's EFILE privileges on the basis of what the CRA refers to as "Criterion 10", which concerns activities that resulted in the suspension of electronic filing privileges in a previous year, or that would have led to suspension if discovered during the program. The reasons rely on subsection 150.1(2) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) (the "Act"), which authorizes the Minister of National Revenue to specify participation criteria for electronic filing.

[12] The Decision explained that:

- (a) the Applicant's earlier EFILE account (Q9080) was suspended after the CRA determined that she had electronically filed returns for individuals who are excluded from EFILE processing, including certain temporary foreign agricultural workers and certain deemed residents;
- (b) in March 2020, the CRA told the Applicant, both verbally and in writing, that she could not use EFILE to file returns for those excluded taxpayers and directed her to the CRA's published list of exclusions;
- (c) the CRA then conditionally approved a new EFILE account for the Applicant (V7197); and
- (d) the CRA determined that, even after that warning and conditional approval of the Applicant's new EFILE account, the Applicant continued to electronically file returns for excluded individuals.

[13] Relying on those findings, the Appeals Manager concluded that the Applicant does not meet the suitability criteria to participate in EFILE and confirmed the suspension of the Applicant's EFILE privileges.

IV. Issues

[14] The application raises two issues:

1. Whether the CRA met the duty of procedural fairness owed to the Applicant when it conducted the fresh administrative review that led to the Decision.
2. Whether the Decision was reasonable.

[15] The Applicant also raises allegations of confidentiality breaches, conflict of interest between a competitor and the CRA, reputational harm, and delay. She seeks reinstatement of her EFILE privileges, declarations of wrongdoing by the CRA, costs, and orders affecting third parties.

V. Standard of Review

[16] The standard of review with respect to the Applicant's procedural rights is correctness or a standard with the same import (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 34-35 and 54-55, citing *Mission Institution v Khela*, 2014 SCC 24 at para 79).

[17] The standard of review with respect to the Appeals Manager’s substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 25). This Court has confirmed that decisions regarding access to the EFILE program are reviewed on the standard of reasonableness (*Paterson v Canada*, 2010 FC 644 [Paterson] at para 12, aff’d 2011 FCA 12).

VI. Analysis

A. *Procedural Fairness*

(1) Content of the duty of procedural fairness

[18] The Supreme Court of Canada in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC) [Baker], identified non-exhaustive factors that inform what procedural fairness requires: (i) the nature of the decision and the process, (ii) the statutory scheme, (iii) the importance of the decision to the individual, (iv) the individual’s legitimate expectations, and (v) the choices of procedure made by the decision maker.

[19] EFILE participation is a discretionary administrative privilege, granted at the Minister’s discretion under subsection 150.1(2) of the Act if a person meets “criteria specified in writing by the Minister” (*Paterson* at para 3).

[20] The Applicant’s position is that the suspension has harmed her livelihood, her professional reputation, and her client base. At the same time, the suspension applies to electronic filing, not to her ability to prepare and submit paper returns for her clients. The record

shows that many of her clients are temporary foreign workers for whom the CRA requires paper filing in any event. While the effect on her business is no doubt serious, she is not prevented from continuing to practice save for being unable to file using the EFILE system.

[21] After this Court set aside the First Decision in November 2022, a different decision was ordered to reconsider the matter. While the Applicant could reasonably expect a fresh review by a different officer, she could not reasonably expect that the new officer would necessarily adopt the same rationale (Criterion 13) used in the First Decision, which this Court had quashed. The new officer was able to consider the Applicant's EFILE suitability under any applicable criterion, which was done under Criterion 10, provided the Applicant had notice and a chance to respond.

[22] The Appeals Officer conducted a fresh, written administrative review, supplemented by direct communication. The Appeals Officer sought submissions, sent a proposal letter before a final decision, and had a telephone call with the Applicant to explain his concerns and invite further submissions.

[23] I find that the duty of fairness owed in this context falls at the lower end of the spectrum.

(2) Whether the CRA met its duty of fairness

(a) *Notice of the case to meet*

[24] On May 30, 2024, the Appeals Officer sent the Applicant the Proposal Letter, which described the basis on which the Applicant's EFILE suspension may be maintained, in that the Applicant continued to use EFILE to file returns for individuals the CRA considers excluded from electronic filing. The Proposal Letter invited the Applicant to make further submissions by June 28, 2024.

[25] On June 21, 2024, the Appeals Officer and the Applicant spoke by telephone. His notes record that he told her that his review was not based on Criterion 13, he was instead considering her continuing conduct of filing electronically for excluded taxpayers as a reason to uphold the suspension. The Appeals Officer reiterated that the Applicant could provide additional submissions by June 28, 2024.

[26] The Applicant argues that she never received clear warning that the CRA would shift from Criterion 13 to Criterion 10. In my view, fairness in these circumstances required notice of the facts said to justify maintaining the suspension, not advance citation of the internal label, Criterion 10, that the Appeals Manager would later apply. In the fresh review, the Appeals Officer expressly told the Applicant that his decision was not based on Criterion 13, and that he was basing his decision on the fact that the Applicant continued to use EFILE to file returns for excluded individuals. When the Appeals Officer sent the Proposal Letter, and when he spoke with the Applicant on the phone on June 21, 2024, the Appeals Officer's review was not yet

complete, as the Appeals Officer invited further submissions from the Applicant and was awaiting those further submissions.

(b) *Opportunity to respond*

[27] The Applicant submitted written materials by fax and later by mail received by the CRA on April 8, 2024. While it appears that the Applicant encountered problems uploading the documents to an online portal and problems with Canada Post, the record shows that the Appeals Officer received the Applicant's documents and considered them. The Appeals Officer gave the Applicant a June 28, 2024, deadline to submit further documents.

[28] While the Applicant sent a letter to the Appeals Officer on June 24, 2024, requesting a 30-day extension of time to make further submissions, the CRA did not respond or grant the requested extension. The Applicant sent another letter to the Appeals Officer on July 26, 2024. On August 20, 2024, the Appeals Officer called the Applicant and asked whether she had submitted anything else to the CRA between the June 24 and July 26 letters. The Applicant said she had not. The Appeals Officer told the Applicant that she had sent the July 26, 2024, letter without any further documentation.

[29] The Decision issued on August 21, 2024. The record shows that the Applicant had a reasonable opportunity to respond to the concerns the Appeals Officer identified before the Appeals Manager made the Decision.

(c) *Consideration of submissions*

[30] The Applicant argues that the Appeals Officer and Appeals Manager failed to consider certain exhibits and affidavit paragraphs, and that this failure breached procedural fairness. The Respondent argues that much of the material the Applicant now relies on was not before the Appeals Manager at the time of the Decision, and in any event goes to matters beyond the suitability criteria (for example, alleged CRA conflicts of interest with other tax preparers, ongoing audits under section 163.2 of the Act, and alleged reputational harm in the community). These allegations, while not insignificant, are not material to whether the Applicant met the CRA's written suitability criteria to participate in EFILE.

[31] On judicial review, the Court generally confines itself to the record before the decision maker, subject to limited exceptions such as evidence of procedural unfairness (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19-20). The record shows that the Appeals Officer received and analysed the Applicant's fax and April 8, 2024 submissions relating to her eligibility for EFILE, and the working paper attached to the Decision addresses those submissions. The Proposal Letter invited the Applicant to make further submissions by June 28, 2024, and the Appeals Officer reiterated that deadline during his June 21, 2024, phone call with the Applicant. As addressed above, although the CRA had not responded to the Applicant's request for an extension, the Appeals Officer nonetheless contacted the Applicant to confirm whether she had submitted additional documents before closing the file.

[32] While the Decision does not refer to every document the Applicant references in her submission in this proceeding, that is not, on these facts, a breach of procedural fairness.

(d) *Delay and prejudice*

[33] The Applicant submits that the CRA's process has taken several years and has caused her financial and reputational harm. Administrative delay can, in some circumstances, breach procedural fairness if it causes significant prejudice (*Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 [*Blencoe*]).

[34] There is no doubt that the overall dispute between the Applicant and the CRA has been ongoing since at least 2021. However, after this Court set aside the First Decision in November 2022 and ordered a new determination, the CRA assigned a different Appeals Officer, invited the Applicant to make fresh submissions in 2024, disclosed a proposal before a final decision, and issued the Decision in August 2024. There has been no inordinate delay and the 2024 redetermination process did not prevent the Applicant from knowing the case to meet or from responding before the Decision issued, nor did it otherwise cause prejudice that would justify setting aside the Decision (*Blencoe* at paras 115-121).

(e) *Cross-examination in this proceeding*

[35] The Applicant also points to events during the cross-examination of the Appeals Officer in this proceeding, including the presence of counsel and objections during questioning. The duty of fairness concerns the administrative process that produced the Decision, not litigation steps

taken after the Decision for purposes of judicial review. Those objections do not establish a breach of procedural fairness in the administrative process.

[36] There was no breach of procedural fairness.

B. *Reasonableness*

[37] Under subsection 150.1(2) of the Act, a person may file individual income tax returns electronically only if they meet criteria specified in writing by the Minister. The Decision refers to CRA program materials that list categories of taxpayers for whom an EFILE participant may not file electronically, including some temporary foreign agricultural workers and certain deemed residents. The Decision states that the CRA warned the Applicant in March 2020, both verbally and in writing, that she was not permitted to use EFILE to file returns for certain excluded taxpayers and directed her to the CRA's published list of exclusions.

[38] The Applicant submits that these guidelines are unclear, inconsistently applied, and were not always available to her. The Respondent submits that:

- (a) subsection 150.1(2) permits the Minister to specify written criteria;
- (b) the CRA published written criteria and exclusions; and
- (c) EFILE participants must comply with those criteria as a condition of continued participation.

[39] The Decision sets out the factual path:

- (a) the Applicant's earlier EFILE account (Q9080) was suspended for electronically filing returns for excluded taxpayers;
- (b) the CRA warned the Applicant in March 2020 that such filings were not allowed and directed her to the exclusion list;
- (c) the CRA conditionally accepted a new account for the Applicant (V7197); and
- (d) the CRA determined that, even after the warning and conditional acceptance, the Applicant continued to electronically file returns for excluded individuals.

[40] Criterion 10 looks to whether the participant engaged in conduct that had already resulted in a prior suspension or would have justified a suspension. The Decision explains that the Applicant's continued EFILE filings for excluded individuals, after being warned and after an earlier suspension, satisfied Criterion 10 and justified maintaining the suspension. That is an internally coherent and rational chain of analysis (*Vavilov* at para 85). It identifies a governing constraint, suitability criteria under subsection 150.1(2) of the Act, sets out factual findings, and explains why those findings satisfy Criterion 10.

[41] The Applicant argues that the CRA could not "switch" from applying Criterion 13 to Criterion 10 without violating reasonableness. I do not accept that argument. After this Court set aside the First Decision and ordered a fresh determination by a different decision maker, the new Appeals Officer and Appeals Manager were required to decide afresh whether the Applicant met the CRA's EFILE suitability criteria. They were not bound to defend the rationale of the First

Decision. What matters for reasonableness is whether the Decision justifies the outcome it reached on the legal and factual constraints it applied.

[42] The Applicant also submits, in substance, that certain temporary foreign agricultural workers and certain deemed residents should not be excluded from filing through EFILE. That is a policy objection not under review in this proceeding. It does not, on this record, show that the Appeals Manager's application of the written criteria in making the Decision was unreasonable.

[43] The Applicant further argues that the Appeals Officer and Appeals Manager ignored parts of her evidence, including allegations of misconduct by CRA officials, alleged conflicts of interest with a competing tax preparer, privacy concerns, and reputational harm. The Decision's working paper addresses the submissions that bear on the Applicant's suitability for EFILE, specifically, whether the Applicant continued to electronically file for excluded taxpayers after being told not to do so. The Decision does not address in detail the Applicant's broader allegations of unfair treatment by CRA staff, nor her allegations of reputational harm caused by third parties. Those allegations were not relevant nor are they determinative of whether the Applicant continued to engage in conduct that disqualified her for EFILE purposes. A decision maker is not required to resolve collateral allegations that are not material to the statutory and policy constraint being applied.

[44] The Decision is intelligible, justified, and responsive to the key statutory constraint in subsection 150.1(2) of the Act and to the EFILE suitability screening criteria that the CRA applied. The Decision is reasonable.

C. *Scope of Remedies on Judicial Review*

[45] The Applicant asks this Court to:

- (a) quash the Decision;
- (b) reinstate her EFILE account immediately or remit to a different decision maker for another review;
- (c) declare that the CRA breached procedural fairness and acted inconsistently;
- (d) exempt the Applicant from any liability resulting from third-party errors that contributed to improper filings;
- (e) order the CRA to review the tax liabilities of third parties; and
- (f) award costs related to the Applicant's examination of the Appeals Officer.

[46] Given that the Decision is both procedurally fair and reasonable, the Applicant's remedies are not warranted.

D. *Costs*

[47] The Applicant, who is self-represented, seeks to recover costs associated with her examination of the Appeals Officer, including transcription and interpretation expenses. She submits that those expenses were necessary to advance her position.

[48] The Respondent seeks costs of the application.

[49] Under Rules 400 and 401 of the *Federal Courts Rules*, SOR/98-106, costs are discretionary. The Applicant's earlier judicial review of the CRA's First Decision was allowed, and the record suggests that she does not fully distinguish that earlier decision from the Decision now under review. I make no order as to costs.

VII. Conclusion

[50] The application is dismissed. No order as to costs.

JUDGMENT in T-2474-24

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.
2. There is no order as to costs.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2474-24

STYLE OF CAUSE: MA. MARIBEL ACEVEDO VIRGEN v ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 12, 2025

JUDGMENT AND REASONS: MANSON J.

DATED: NOVEMBER 25, 2025

APPEARANCES:

Ma. Maribel Acevedo Virgen

FOR THE APPLICANT
(ON HER OWN BEHALF)

Ian Pillai

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT