

Federal Court



Cour fédérale

**Date: 20230530**

**Docket: T-881-22**

**Citation: 2023 FC 755**

**Ottawa, Ontario, May 30, 2023**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**SCOTT BISHOP**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Scott Bishop (“Mr. Bishop”), seeks judicial review of a decision of a Benefits Compliance Officer (“the Officer”) at the Canada Revenue Agency [CRA]. The Officer found that Mr. Bishop was ineligible for the Canada Recovery Benefit (“CRB”) because he did not demonstrate a total income of at least \$5,000 in 2019 or in the 12 months preceding the application (*Canada Recovery Benefits Act*, SC 2020, c 12, s 3(1)(d) [*CRB Act*]).

[2] I agree with Mr. Bishop that the Officer was unreasonable in their evaluation of Mr. Bishop's evidence of his income for 2019. In particular, the Officer took the position that because section 6 of the *CRB Act* provides that an applicant "must provide the Minister with any information that the Minister may require in respect of the application," Mr. Bishop's failure to provide further financial documentation as requested is a sufficient basis to find him ineligible. I do not agree. The Officer did not evaluate Mr. Bishop's affidavit, which provided an explanation for his inability to produce other financial documentation.

[3] Repeatedly, throughout the income verification process, Mr. Bishop explained to the CRA his difficulty in providing further documentation and set out the nature of the work he did and the steps he took to obtain documentation to verify this work. The Officer did not disbelieve this explanation. It seems that the Officer took the position that the explanation provided in the affidavit was irrelevant because of the requirement to provide documents requested under section 6 of the *CRB Act*. This was unreasonable and requires the application to be redetermined.

## II. Background

[4] The CRB provided direct financial support to eligible people residing in Canada and affected by the COVID-19 pandemic for any two-week period between September 27, 2020 and October 23, 2021. Residents had to meet the eligibility requirements for each of the two-week periods. At issue here is the requirement set out in paragraph 3(1)(d) of the *CRB Act* requiring an applicant to demonstrate that they had at least \$5,000 in income in 2019 or in the 12 months before the date of their first application.

[5] Mr. Bishop applied for CRB for four two-week periods from September 27, 2020 to November 21, 2020. Mr. Bishop provided his 2019 Tax Return Summary and his Notice for Assessment where he had reported \$6,200 in income for 2019. Mr. Bishop also provided an affidavit explaining the details of the work he did in 2019, the steps he had taken to obtain documentation confirming he was paid, and why further documentation was not available to him.

[6] On September 3, 2021, the CRA refused Mr. Bishop's application because he failed to provide financial documents to prove his income. Mr. Bishop requested a second review. On March 21, 2022, the Officer confirmed the first decision, finding that Mr. Bishop did not establish proof of payment for the work in 2019.

### III. Analysis

[7] The determinative issue relates to the merits of the CRA's determination that Mr. Bishop did not meet the income eligibility requirement set out in paragraph 3(1)(d) of *CRB Act*. The parties agree, as do I, that I should review the CRA's determination on the reasonableness standard.

[8] Mr. Bishop provided the CRA with an affidavit setting out the following circumstances of his 2019 income. Mr. Bishop worked as a self-employed contractor from approximately May to October 2019 for one client providing renovation services. She lived in a trailer in Vernon, British Columbia. He charged her \$20 per hour and she paid him in cash at the end of each day. They had a verbal agreement. In total, the client paid Mr. Bishop \$6,200. He did not deposit this money in a bank account.

[9] Since October 2019, Mr. Bishop has not heard from the client despite attempting to obtain a receipt for the payment on several occasions. Mr. Bishop has tried calling the former client a number of times but she has not answered or returned his calls. Mr. Bishop also attested that he had personally knocked on her door four or five times and have left notes pinned to her door. She has not responded or replied to his notes. He provided a copy of one of the notes he pinned to her door as an exhibit to his affidavit. Mr. Bishop also provided the phone number where he was able to reach the client in the past.

[10] The CRA did not questions Mr. Bishop about the contents of his affidavit. There are no negative credibility inferences drawn. The Officer found Mr. Bishop ineligible based on his inability to provide the CRA with further documentation when requested to substantiate his income in 2019. The CRA did not, however, explain why the explanation provided by Mr. Bishop for his inability to provide a receipt or other financial documentation was unsatisfactory.

[11] Mr. Bishop explained the nature of his work and the extensive steps he has taken since October 2019 to obtain a receipt for the work he had done. Given this was a key issue raised by Mr. Bishop, the Officer had to address it in their reasons. Simply stating that it was not proof of his income without addressing his explanation for why he could not obtain any other documentation is not responsive to Mr. Bishop's repeated and consistent submissions on this issue.

[12] As noted by Justice Elliott in *Walker v Canada (Attorney General)*, 2022 FC 381  
[*Walker*]:

With the responsibility of self-reporting, comes an obligation, as set out in section 6 of the *CRBA*, to provide any information that the CRA may require to confirm compliance with the legislative provisions. This requirement compels an applicant to provide documents and information requested by the CRA *or explain why it is not possible* to comply. It does not restrict what an applicant may submit to support their claim (*Walker* at para 37 [emphasis added]).

[13] The key issue here is that the CRA has to consider explanations as to why an applicant could not comply with their request. Mr. Bishop provided a detailed explanation in a sworn declaration and the CRA did not evaluate it. This was unreasonable and requires that the matter be redetermined by a different officer.

[14] Mr. Bishop sought the costs of this application. The parties did not bring a joint proposal on costs. I see no reason to depart from the general rule that costs follow the event and award costs against the losing party.

[15] The application for judicial review is allowed with costs.

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is allowed;
2. The matter is referred back to the Canada Revenue Agency for redetermination by another officer; and
3. The Respondent shall pay the Applicant his costs.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-881-22

**STYLE OF CAUSE:** SCOTT BISHOP v. ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** NOVEMBER 28, 2022

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** MAY 30, 2023

**APPEARANCES:**

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Anna Walsh	FOR THE RESPONDENT
Cindy Mah	

**SOLICITORS OF RECORD:**

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