

Federal Court



Cour fédérale

Date: 20231221

Docket: T-629-23

Citation: 2023 FC 1741

Ottawa, Ontario, December 21, 2023

PRESENT: Madam Justice McDonald

BETWEEN:

SHIRAZ VIRANI

Applicant

and

**THE ATTORNEY GENERAL OF CANADA
AND CANADA REVENUE AGENCY**

Respondents

JUDGMENT AND REASONS

[1] On this Application for judicial review, Shiraz Virani seeks review of the Canada Revenue Agency's [CRA] second decision [Decision] to deny him the Canada Recovery Benefit [CRB]. The second decision arose following his successful judicial review of the first CRA denial. In the second decision, the CRA again denied CRB benefits to Mr. Virani on the grounds that he did not meet the minimal income requirement of \$5,000.00.

[2] Mr. Virani, who represents himself on this matter, seeks a directed verdict of entitlement to CRB and costs of this matter.

[3] For the reasons that follow, this Application for judicial review is dismissed as I have found that the CRA's second decision was reached in a procedurally fair manner and is reasonable.

I. Background

[4] In October 2020, Mr. Virani applied for CRB. He is self-employed as a book-keeper who operates through a number of companies.

[5] On February 15, 2022, the CRA determined he had not earned at least \$5,000.00 of employment or self-employment income in 2019, 2020, or in the 12 months prior to the date of his first application. Mr. Virani successfully sought judicial review of this decision. In *Virani v Canada (Attorney General)*, 2022 FC 1480 [*Virani*], Justice Go found that the CRA breached procedural fairness as they did not advise Mr. Virani that they required further documentation to make their eligibility decision (*Virani* at para 21). Justice Go remitted the matter back to the CRA for redetermination by a different decision-maker.

A. *CRB redetermination process*

[6] The evidence relied upon by Mr. Virani in support of earnings of at least \$5,000.00 was his 2019 income tax and benefit return; 2019 notice of tax assessment; and 2019 T4 and T4A slips.

[7] On January 18, 2023, the CRA telephoned Mr. Virani and requested that he provide additional documents. In the screen shots from the CRA T1Case notes, the CRA agent notes, in part, as follows:

The agent then explained that this is a document driven review and in this validation stage only 5k income is verified. In future, CRA might ask for more documents to verify all CRB eligibility criteria. The tp was understanding and was then asked to submit additional documents such as: Personal Bank Statements and a breakdown of work that his business paid him for and when.

[8] On January 19, 2023, Mr. Virani responded to the CRA stating as follows:

Regarding my bank statements, please note that I am a private citizen; I value my right to privacy and my civil liberties. I cannot divulge personal, private and confidential information such as bank statements as I value my right to privacy and my civil liberties, as a private citizen. Personally, I am not a business.

Asking for my personal, private and confidential statements, is a breach of my civil liberty.

Personally, I do not believe that Government has a right to stop the CRB if I do not wish to open my personal and private documents such as bank statements. If I am wrong, please correct me and provide me with a legal basis for your position.

[9] On January 20, 2023, the CRA left a voicemail for Mr. Virani explaining that Article 6 of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [CRB Act] confirms that the taxpayer “is required to submit the requested [documents]” to allow the agent to determine if the taxpayer was “eligible for the applied benefits.”

[10] On January 23, 2023, Mr. Virani sent another letter to the CRA. In this letter, he asked:

If a benefit recipient did not receive remuneration through a bank, but rather through cash or credit to his shareholder loan account, would that disqualify his eligibility.

Further, if the recipient provided written confirmation from his employer(s), of the remuneration paid to him; would that suffice for your purpose?

[11] On February 1, 2023, the CRA left Mr. Virani a voicemail, confirming receipt of his January 23 letter and advising:

...as this is a documents driven review I will need other document proof that you have personally earned 5k of employment income prior to your application for the CRB benefits.

Please feel free to contact me if you have any further questions, your case will remain open for 15days, if no documents are submitted at that point the review will be completed based on the information you have already provided.

[12] On February 7, 2023, Mr. Virani sent CRA another letter in which he states “in the absence of the requested written responses,” he attached invoices, acknowledging receipts, and verification letters from the employer companies.

[13] Mr. Virani claims that the CRA never contacted his employers, to independently verify the information.

II. CRA Decision under review

[14] On March 21, 2023, the CRA informed Mr. Virani that he did not meet the eligibility criteria to qualify for CRB [Decision]. The Decision letter states:

- You did not earn at least \$5,000 (before taxes) of employment or net self-employment income in 2019, 2020, or in the 12 months before the date of your first application.

A. *Evidence on Application*

[15] In support of this judicial review Application, Mr. Virani filed an Affidavit sworn on April 21, 2023.

[16] The CRA file a Certified Tribunal Record [CTR] certified by Donna Kelly, a program officer in the Canada Emergency Benefits Section.

III. Issues

[17] On this Application, Mr. Virani raises the following issues:

1. Was the Decision procedurally fair?

Was the Decision reasonable?

IV. Relevant legislation

[18] Sections 3 and 4 of the CRB Act say:

3 (1) A person is eligible for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021 if

...

(d) in the case of an application made under section 4 in respect of a two-week period beginning in 2020, they had, for 2019 or in the 12-month period preceding the day on which they make

3 (1) Est admissible à la prestation canadienne de relance économique, à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021, la personne qui remplit les conditions suivantes :

...

d) dans le cas d'une demande présentée en vertu de l'article 4 à l'égard d'une période de

the application, a total income of at least \$5,000 from the following sources:

- (i) employment,
- (ii) self-employment,
- (iii) benefits paid to the person under any of subsections 22(1), 23(1), 152.04(1) and 152.05(1) of the *Employment Insurance Act*,

...

(v) any other source of income that is prescribed by regulation;

(e) in the case of an application made under section 4 by a person other than a person referred to in paragraph (e.1) in respect of a two-week period beginning in 2021, they had, for 2019 or for 2020 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000 from the sources referred to in subparagraphs (d)(i) to (v);

...

Application

4 (1) A person may, in the form and manner established by the Minister, apply for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021.

deux semaines qui débute en 2020, ses revenus provenant des sources ci-après, pour l'année 2019 ou au cours des douze mois précédant la date à laquelle elle présente sa demande, s'élevaient à au moins cinq mille dollars :

- (i) un emploi,
- (ii) un travail qu'elle exécute pour son compte,

(iii) des prestations qui lui sont payées au titre de l'un des paragraphes 22(1), 23(1), 152.04(1) et 152.05(1) de la *Loi sur l'assurance-emploi*,

...

(v) une autre source de revenu prévue par règlement;

e) dans le cas d'une demande présentée en vertu de l'article 4, par une personne qui n'est pas visée à l'alinéa e.1), à l'égard d'une période de deux semaines qui débute en 2021, ses revenus provenant des sources mentionnées aux sous-alinéas d)(i) à (v) pour l'année 2019 ou 2020 ou au cours des douze mois précédant la date à laquelle elle présente sa demande s'élevaient à au moins cinq mille dollars;

...

Demande

4 (1) Toute personne peut, selon les modalités — notamment de forme — fixées

par le ministre, demander une prestation canadienne de relance économique à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021.

[19] Section 6 of the CRB Act says:

Obligation to provide information

6 An applicant must provide the Minister with any information that the Minister may require in respect of the application.

Obligation de fournir des renseignements

6 Le demandeur fournit au ministre tout renseignement que ce dernier peut exiger relativement à la demande.

V. Analysis

A. *Was the Decision procedurally fair?*

[20] Mr. Virani argues that the CRA did not explain which part of his claimed \$5,000.00 was not earnings. He says that he had legitimate expectations that based on his submission to the CRA, they would accept his information and not reject his CRB application. He relies on *Edison v MNR*, 2001 FCT 734 [*Edison*] which states “[i]f the claimant has a legitimate expectation that a certain procedure will be followed, this procedure will be required by the duty of fairness,” quoting *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraph 26 (*Edison* at para 22).

[21] In the CTR, the documents disclosed by the CRA include transcripts of telephone messages left by CRA to Mr. Virani. While it might have been preferable for the CRA to communicate with Mr. Virani in writing to avoid any confusion on what in particular was being requested, I am satisfied that Mr. Virani understood what was being requested by the CRA.

[22] Specifically, the CRA requested bank statements of income by telephone messages dated January 23 and February 1, 2023.

[23] The CRB application procedures and the CRA telephone messages to Mr. Virani make it clear that CRA was looking for additional information, such as bank statements, to establish the \$5,000.00 minimum income. In the circumstances, I am satisfied that he was advised of the information that was required to consider his CRB application.

[24] In keeping with the CRA Guidelines for “Confirming CERB, CRB, CRSB and CRCB Eligibility” [CRA Guidelines], the CRA was entitled to request supporting documentation such as bank statements to substantiate employment income (*Santaguida v Canada (Attorney General)*, 2022 FC 523 at para 27).

[25] The concept of legitimate expectations refers to the process not the outcome. Mr. Virani understood that CRA was seeking additional information and was within its rights to do so. Although Mr. Virani would clearly have preferred a different outcome, that alone does not support an argument that his legitimate expectations were not met.

[26] Overall, Mr. Virani was informed of the case to be met and was given the full opportunity to provide the requested documents for his CRB application (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 127 [*Vavilov*]).

[27] There is no breach of procedural fairness.

B. *Was the Decision reasonable?*

[28] In reviewing the CRA Decision on the reasonableness standard, the Court considers if the decision is intelligible, transparent, and justifiable (*Vavilov* at para 99).

[29] The relevant requirements for CRB eligibility are found at paragraphs 3(1)(d) and (e) of the CRB Act, outlined above.

[30] Mr. Virani's main contention is that he should not have been required to produce any additional evidence to prove his earnings. He submits that the CRA Guidelines contain a list of acceptable proof of income documents which includes invoices for services rendered and contracts. He argues that the CRA did not explain which part of his claimed \$5,000 was not earnings and that the CRA did not provide any reasons or contrary evidence. He claims that CRA did not cite lack of proof as their reason for rejecting his eligibility for CRB.

[31] However, a review of the CTR does not support Mr. Virani's position. In the CRA telephone messages left for Mr. Virani on January 23 and February 1, 2023, the CRA agent requests bank statements and explains that it is a "document driven" process. In its note prior to

the Decision of March 21, 2023, the CRA also wrote that he (Mr. Virani) “has not provided sufficient documentation and as such he is unwilling to proceed with the review process.”

[32] The CRA found that, although Mr. Virani does have a history of claiming self-employment income, he has not “met the minimum 5k criteria.”

[33] CRA relied upon the following materials in reaching its Decision:

- T4 and T4A from 2019 issued by Mr. Virani’s for Catherine Almrud Holdings Inc. and 0939290 B.C. Ltd.
- letters from Mr. Virani on January 19, 2023 and January 23, 2023 explaining that he believes that it is against his civil rights for CRA to be requesting his personal banking information and other personal documents relating to payments received.
- Mr. Virani’s history of claiming self-employment income, but he has not claimed over \$5,000 in Net Self-employment income since 2013. In 2019, Mr. Virani filed \$3,500 in Employment income and a net business income of \$1,500. No expenses were claimed which was unusual based on his history.
- Records of Voicemails left by the CRA Reviewer on January 20, 2023.
- Records of Voicemails left by Mr. Virani on January 19, 2023.
- Records of phone calls with Mr. Virani on January 18, 2023.

[34] The CRB Act at section 6 provides that Mr. Virani “must provide the Minister with any information that the Minister may require in respect of the application.” The CRA Guidelines state that the CRA can ask for “bank statements showing the name, address and payroll deposit.”

Accordingly, I do not agree with Mr. Virani when he states that the CRA had no right to request additional documents. The legislation and the Guidelines clearly give the CRA that power.

[35] Mr. Virani objected to providing documents for reasons of his “privacy” and “civil liberties.” It is Mr. Virani’s right to refuse to provide the requested information; however, he cannot now criticize that the CRA determined it had insufficient information to support his claim.

[36] Further, his submission that the CRA never asked for bank statements in the first decision and re-evaluation decision (the subject of *Virani*) is irrelevant to whether they were entitled to make the request in the context of the Decision under review in this judicial review Application. In *Virani*, Justice Go remitted the decision back to a different decision-maker.

[37] The CRA’s second Decision, finding that Mr. Virani does not meet the income eligibility criteria for the CRB, is reasonable.

VI. Conclusion

[38] This Application for judicial review is therefore dismissed without costs.

JUDGMENT IN T-629-23

THIS COURT'S JUDGMENT is that:

1. This Application for judicial review is dismissed.
2. No costs are awarded.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-629-23

STYLE OF CAUSE: VIRANI V THE ATTORNEY GENERAL OF CANADA
AND CANADA REVENUE AGENCY

PLACE OF HEARING: VANCOUVER, BC

DATE OF HEARING: NOVEMBER 8, 2023

JUDGMENT AND REASONS: MCDONALD J.

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