Federal Court Cour fédérale

Date: 20240424

Dockets: T-901-23
T-902-23

Citation: 2024 FC 619

Ottawa, Ontario, April 24, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

STANISLAWA WOJTASIK

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Government of Canada created the Canada Emergency Response Benefit (CERB) and then the Canada Recovery Benefit (CRB) to provide financial assistance to employed and self-employed individuals directly affected by the COVID-19 pandemic: see *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 and *Canada Recovery Benefits Act*, SC 2020, c 12, s 2.

[2] To qualify for these benefits, an applicant had to establish a minimum amount of employment or self-employment income during the qualifying period. In the case of the CERB, an applicant had to establish that they earned at least $5,000 (before taxes) of employment or self-employment income in 2019 or in the 12 months prior to first applying for the benefit. This benefit was payable in respect of any four-week period between March 15, 2020, and October 3, 2020. In the case of the CRB, an applicant had to establish that they earned at least $5,000 (before taxes) of employment or net self-employment income in 2019, 2020, or in the 12 months before first applying for the benefit. This benefit was payable in respect of any two-week period falling between September 27, 2020, and October 23, 2021. The Canada Revenue Agency (CRA) was responsible for administering both benefit programs.

[3] The applicant, Stanislawa Wojtasik, applied for both CERB and CRB benefits. To demonstrate that she qualified financially, she provided the CRA with documentation to show that, between January and March 2020, she had earned income working as a babysitter and housekeeper for her daughter and her son-in-law. Whether the applicant had established that she earned sufficient income to qualify for the benefits became the subject of a protracted dispute between the applicant and the CRA. There is no need to set out the history of the dispute here. Suffice it to say that the dispute centred not on whether the applicant's claimed income met the requisite threshold (it did) but, rather, whether the applicant had provided sufficient evidence to establish that she had earned the income she claimed.

[4] Final decisions denying the applicant's entitlement to CERB and CRB benefits were made on April 7, 2023. These decisions were communicated to the applicant by form letters

dated April 12, 2023. Both decision letters state that the applicant had been determined to be ineligible because she did not earn the required minimum income in the applicable qualifying periods.

[5] The applicant, who is self-represented, now applies for judicial review of both of these decisions under section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7. Given the common elements between the two applications, they were heard together.

[6] As I will explain, I have concluded that the applications must be allowed because the decision maker failed to take into account material evidence that was before him – namely, the applicant's income tax return for 2020. As a result of this failure, the decisions are unreasonable because they lack the requisite degree of transparency, intelligibility and justification.

[7] The applicant did not address the standard of review I should apply when reviewing the merits of the decisions. The respondent submits that reasonableness is the presumptive standard of review for administrative decisions and there is no basis for departing from this presumption here: see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10. I agree with the respondent. Indeed, it is now well established in this Court's jurisprudence that this is the applicable standard of review for the merits of CERB and CRB decisions: see *Matembe v Canada (Attorney General)*, 2023 FC 290 at para 18 and the cases cited therein.

[8] A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker"

(*Vavilov* at para 85). A decision that displays these qualities is entitled to deference from a reviewing court (*ibid.*). When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances (*Vavilov* at para 125). To set aside a decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[9] Since I have found that this is the case here, it is not necessary to address the applicant's submission that the decisions were not made in accordance with the requirements of procedural fairness.

[10] The final decisions on the applicant's eligibility for CERB and CRB benefits were made by the same CRA benefits validation officer. The officer's notes for both matters are identical. The notes reflect that the officer reviewed various documents provided by the applicant and also took into account information the applicant and her son-in-law had provided to the CRA in a series of telephone contacts. In respect of both matters, the officer's overall conclusion is stated as follows: "Following the eligibility procedures and using reasonableness I have concluded that [the applicant] is ineligible for benefits as they do not have a solid history of filing net self-employment and without additional clients, and documentation to support their working income."

[11] I agree with the applicant that this conclusion is unreasonable in a key respect. The officer never considers the fact that in her 2020 tax return, the applicant reported and paid taxes on the very self-employment income on which she was relying to establish her entitlement to the CERB and CRB benefits. This information must have been available to the officer because excerpts of relevant parts of the tax return are included in both Certified Tribunal Records. This information is, at the very least, capable of corroborating the applicant's claim that she earned sufficient income to qualify for the benefits. A reasonable decision maker may or may not find this evidence determinative but, given its obvious relevance, it should have been considered. The failure to do so leaves the decisions lacking in transparency, intelligibility and justification on a central issue. As a result, the decisions must be set aside and the matters remitted for redetermination.

[12] Finally, the correct respondent in both matters is the Attorney General of Canada: see Rule 303(2) of the *Federal Courts Rules*, SOR/98-106. The style of cause in both matters will be amended accordingly.

[13] The applicant did not request costs so none will be awarded.

JUDGMENT IN T-901-23 AND T-902-23

THIS COURT'S JUDGMENT is that

1. The style of cause in both matters is amended to replace the Canada Revenue Agency with the Attorney General of Canada as the correct respondent.
2. The applications for judicial review are allowed.
3. The respective decisions dated April 7, 2023, are set aside and the matters are remitted for reconsideration by a different decision maker.
4. No costs are awarded.
5. A copy of these reasons shall be deposited in both files.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-901-23
STYLE OF CAUSE:	STANISLAWA WOJTASIK v ATTORNEY GENERAL OF CANADA
AND DOCKET:	T-902-23
STYLE OF CAUSE:	STANISLAWA WOJTASIK v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
DATE OF HEARING:	NOVEMBER 7, 2023
JUDGMENT AND REASONS:	NORRIS J.
DATED:	APRIL 24, 2024

APPEARANCES:

Stanislawa Wojtasik	ON HER OWN BEHALF
Amin Nur	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT