

Federal Court



Cour fédérale

**Date: 20250123**

**Docket: T-644-24**

**Citation: 2025 FC 140**

**Ottawa, Ontario, January 23, 2025**

**PRESENT: The Honourable Mr. Justice Fothergill**

**BETWEEN:**

**ANUSH GHUKASYAN**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

[1] Anush Ghukasyan seeks judicial review of two decisions by a benefits compliance officer [Officer] with the Canada Revenue Agency [CRA]. The Officer determined that she was not eligible for the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB]. The CERB and CRB provided financial support to employed and self-employed Canadians who were adversely affected by the COVID-19 pandemic.

[2] Ms. Ghukasyan applied for and received the CERB for the periods March 15, 2020 to September 26, 2020. She also applied for and received the CRB for the periods September 27, 2020 to November 21, 2020, December 20, 2020 to January 16, 2021, and February 28, 2021 to October 23, 2021. She said that her employment as a casual clerical worker with Vancouver Island University had been disrupted by the pandemic.

[3] By letter dated March 10, 2021, the CRA informed Ms. Ghukasyan that she was not eligible to receive the CERB because she had not suffered a loss or reduction of employment due to the pandemic. According to a CRA officer's notes, she said she had been laid off before the pandemic began.

[4] On March 17, 2021, Ms. Ghukasyan requested a second review of the CRA's decision. On October 27, 2021, a second CRA reviewer informed Ms. Ghukasyan that she remained ineligible for the CERB for the reasons given previously. The CRA confirmed its decision in a letter dated October 29, 2021.

[5] On November 26, 2021, Ms. Ghukasyan commenced an application for judicial review of the second CERB decision (Court File T-1820-21). The parties agreed to settle the case by remitting the matter to a different CRA reviewer for redetermination. Ms. Ghukasyan filed a Notice of Discontinuance on March 22, 2022.

[6] A new second level reviewer called Ms. Ghukasyan three times between March 29 and 30, 2022, requesting additional documents and clarification. The reviewer left three voice messages but received no response.

[7] By letter dated May 5, 2022, the CRA informed Ms. Ghukasyan that she was not eligible for the CERB because she had not earned at least \$5,000 of employment income or self-employment income in 2019, or in the 12 months prior to the date of her first application.

[8] This was followed by another letter on May 5, 2022, informing Ms. Ghukasyan that she was not eligible for the CRB because she had not earned at least \$5,000 of employment income or net self-employment income in 2019, 2020, or in the 12 months prior to the date of her first application.

[9] On May 11, 2022, Ms. Ghukasyan requested a second review of the CRB decision. In support of her request, she submitted a notice of tax reassessment for 2019. The reassessment included an additional \$2,000 in income that Ms. Ghukasyan said she received from working as an English tutor. According to Ms. Ghukasyan, she had not previously declared this income because she mistakenly believed she was not required to report self-employment income under \$3,000. With the additional income from her work as a tutor, she claimed that her income for the 2019 taxation year was just over \$5,000.

[10] A new CRA second level reviewer telephoned Ms. Ghukasyan on July 14, 2022 to advise her that the bank statements she had provided did not include her name or account number, and

requested that she rectify this. The reviewer also asked about the receipt for tutoring services. Ms. Ghukasyan said she had two or three clients, no expenses or advertising, and no receipts or logbook entries to confirm the sessions. She said she received payment by cheque, which she subsequently deposited into her bank account.

[11] On July 14, 2022, Ms. Ghukasyan sent the CRA a letter in which she said she could not print her bank statements with her name or account number. She was under the impression that the Notice of Discontinuance meant she was entitled to receive the CERB. She also maintained that the documents she had submitted in support of her CERB application should also demonstrate her entitlement for the CRB.

[12] By letter dated September 28, 2022, the CRA informed Ms. Ghukasyan that she was not eligible for the CRB because she had not earned at least \$5,000 of employment income or net self-employment income in 2019, 2020, or in the 12 months prior to the date of her first application. At this point, there had been two reviews of Ms. Ghukasyan CERB eligibility, a reconsideration of the second CERB review, and two reviews of her CRB eligibility.

[13] On February 28, 2023, Ms. Ghukasyan again disputed the CRA's decisions respecting her eligibility for the CERB and CRB. The CRA assigned the Officer to conduct a third review of Ms. Ghukasyan's eligibility.

[14] On June 7, 2023, the Officer telephoned Ms. Ghukasyan and advised her that the information she had submitted was insufficient to verify her employment or income during the relevant periods. Ms. Ghukasyan said she would gather more documents and submit them online.

[15] On June 8, 2023, Ms. Ghukasyan submitted an email message dated October 27, 2021 from the Human Resources Department of Vancouver Island University. The email message confirmed that Ms. Ghukasyan was on the CUPE Casual Clerical list, her last appointment was in December 2019, and that “Casuals” were not utilized at the university for most of 2020 due to the pandemic.

[16] On June 26, 2023, Ms. Ghukasyan sent the CRA a letter asking that all future communications be in writing and not by telephone. On July 7, 2023, the Officer declined Ms. Ghukasyan’s request for communications in writing and granted her a final extension of 15 days in which to submit supporting documents. On July 17, 2023, she submitted another copy of the receipt for English tutoring and a letter of support from a client.

[17] By letters dated August 2 and 3, 2023, the CRA informed Ms. Ghukasyan that she was not eligible for the CERB or CRB because: (a) she had not earned at least \$5,000 of employment income or net self-employment income in 2019, 2020, or in the 12 months prior to the date of her first application; and (b) she had not stopped working for reasons relating to COVID-19.

[18] The Officer’s decisions are subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65

[*Vavilov*] at para 10). The Court will intervene only where “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).

[19] The criteria of “justification, intelligibility and transparency” are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[20] Procedural fairness is subject to a reviewing exercise best reflected in the correctness standard, although strictly speaking no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). The ultimate question is whether an applicant had a full and fair chance to be heard (*Siffort v Canada (Citizenship and Immigration)*, 2020 FC 351 at para 18).

[21] The procedural fairness owed to an applicant for pandemic benefits is at the low end of the spectrum (*Cozak v Canada (Attorney General)*, 2023 FC 1571 [*Cozak*] at para 17).

[22] Ms. Ghukasyan has submitted new evidence in support of her application for judicial review, including a letter from the Human Resources Department of Vancouver Island University confirming that she received no casual assignments for the duration of the pandemic. Evidence that was not before a decision maker that concerns the merits of the case is not generally admissible in an application for judicial review (*Association of Universities and Colleges of*

*Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19).

While there are some exceptions, none of them apply here. Ms. Ghukasyan's new evidence is not admissible.

[23] Ms. Ghukasyan argues that the Officer breached her right to procedural fairness by communicating with her by telephone and refusing her request for written communication. This Court has held previously that, in the absence of a disability known to the CRA, an officer is not required to communicate requests for additional documents in writing (*Cozak* at paras 13-19; *Caron v Canada (Attorney General)*, 2024 FC 1073 at paras 26-29; *Virani v Canada (Attorney General)*, 2023 FC 1741 at para 21; *Cameron v Canada (Attorney General)*, 2024 FC 2 at para 34).

[24] Ms. Ghukasyan was advised repeatedly over the course of two years that her documentation was insufficient to establish her eligibility for the CRB and CERB. I am satisfied that she knew the case to be met. The Officer's decision was procedurally fair.

[25] Ms. Ghukasyan argues that she met the minimum income criterion of \$5,000 for eligibility, as shown by the 2019 Notice of Reassessment. However, income tax assessments are not conclusive proof of income for the purposes of assessing eligibility for COVID-19 benefits (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 35; *Cozak* at para 23). The CRA may require corroborating evidence to establish that declared income was in fact earned.

[26] The receipt for \$2,000 for English tutoring is dated “January-December 2019”. There is also a letter from a client confirming that Ms. Ghukasyan provided tutoring services in 2019, but not in 2020 due to COVID-19.

[27] According to one of the CRA reviewer’s notes, Ms. Ghukasyan said she was paid for her work as an English tutor by cheque. However, her bank account statements (even if one accepts that they pertained to her bank account despite the absence of her name on the documents) do not confirm the deposit of any cheques for tutoring services. In oral argument, Ms. Ghukasyan said she was paid in cash. This account differs from the one in the record. The Officer reasonably found that the documentation provided by Ms. Ghukasyan in support of her claim to have received \$2,000 for work as an English tutor was inadequate.

[28] The Officer was also dissatisfied with the documentation submitted by Ms. Ghukasyan to prove her employment income. She was asked repeatedly to provide bank statements that included the account holder’s name, address, and account number, showing deposits to verify her income. She did not do so. The record of employment she submitted did not clearly demonstrate her employment income for 2019.

[29] Finally, Ms. Ghukasyan insists that she was not laid off in December 2019, despite one of the CRA reviewer’s notes to this effect. The email message from Vancouver Island University and the record of employment indicated that her last casual clerical assignment was in December 2019. It was open to the Officer to conclude that Ms. Ghukasyan did not suffer a loss or reduction in employment due to the pandemic, but for other reasons.



[30] The onus was on Ms. Ghukasyan to demonstrate, on a balance of probabilities, that she met the criteria established by statute to receive pandemic benefits (*Walker v Canada (Attorney General)*, 2022 FC 381 at para 55). The Officer's conclusion that she failed to do so is transparent, intelligible, and justified in light of the record. The Officer's decision was reasonable.

[31] The application for judicial review is dismissed. The Respondent does not seek costs, and accordingly none are awarded.

[32] The Respondent asks to be named as the Attorney General of Canada, and not as the Canada Revenue Agency. The style of cause will be amended accordingly.

**JUDGMENT**

**THIS COURT’S JUDGMENT is that:**

1. The application for judicial review is dismissed without costs.
2. The style of cause is amended to name the Attorney General of Canada as the sole Respondent, with immediate effect.

“Simon Fothergill”

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Judge

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

**DOCKET:** T-644-24

**STYLE OF CAUSE:** ANUSH GHUKASYAN v ATTORNEY GENERAL OF CANADA

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

**DATE OF HEARING:** JANUARY 16, 2025

**JUDGMENT AND REASONS:** FOTHERGILL J.

**DATED:** JANUARY 23, 2025

**APPEARANCES:**

Anush Ghukasyan  
(on her own behalf)

FOR THE APPLICANT

Jun Choi

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Attorney General of Canada  
Vancouver, British Columbia

FOR THE RESPONDENT