

Federal Court



Cour fédérale

Date: 20250205

Docket: T-965-23

Citation: 2025 FC 229

Toronto, Ontario, February 5, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

REHANA MERALI

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms. Merali seeks judicial review of a decision rendered by an officer [Second Reviewer] of Canada Revenue Agency [CRA] finding that she was not eligible for the Canada Recovery Benefit [CRB] because she had not demonstrated at least \$5,000 in employment or net employment in 2019, 2020, or the 12 months prior to her first application. For the reasons that follow, the decision rendered is reasonable and the application for judicial review is dismissed.

II. Background

[2] A condition of the Ms. Merali's eligibility for the CRB was that she earned at least \$5,000 in 2019.

[3] Ms Merali was first found ineligible for the CRB in a decision dated November 8, 2021. She had an initial second review, which found her ineligible in a decision dated February 24, 2022. She began an application for judicial review of this decision, but discontinued it on February 13, 2023, because she was provided with the opportunity for a subsequent review. The decision made after that review is the subject of this application.

III. The Decision Under Review

[4] The Second Reviewer's Report, which forms part of the reasons for the decision (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 22), acknowledged the evidence of handwritten receipts regarding Ms. Merali's teaching business, her 2019 bank statements, schedule calendar, notice of reassessment for 2019, and correspondence with clients. Ultimately, the Second Reviewer concluded that the evidence did not provide a "clear picture" that Ms. Merali earned at least \$5,000 in self-employment.

[5] Specifically, the Second Reviewer found that:

- Ms. Merali's initial 2019 tax assessment claimed only \$2,200 of gross employment, the reassessment claiming \$5,456 of net self employment from invoices she "had forgotten to claim";

- The handwritten receipts amounted to \$9,432 but were not “extremely reliable documents”; they lacked corroboration to support their stated amounts, they did not total the gross self-employment claimed for 2019, and did not correspond with any amounts on the bank statements or correspondence with clients;
- The bank statements did not show any corresponding deposits, although Ms. Merali claimed she did not deposit all of her receipts, and the income on the bank statements only added up to around \$900;
- The correspondence and schedule did not support the stated earnings, with no correlation between the names with dates on the calendar and no receipt/bank statements provided, save for some of the correspondence correlating to the calendar.

[6] The Second Reviewer overall found that the amount provided in the notice of reassessment was not corroborated by these documents, noting the Applicant’s employment income had typically been under \$5,000.

IV. Issues and Standard of Review

[7] Preliminary issues raised by the Respondent involve renaming the Respondent and the admissibility of evidence within this application for judicial review.

[8] The Respondent asserts, and I agree, that the proper Respondent in this matter is the Attorney General of Canada rather than the Canada Revenue Agency. The style of cause will therefore be amended to reflect the proper Respondent.

[9] The Respondent also raises the issue of the Applicant's introduction of new evidence on this judicial review application which was not before the Second Reviewer.

[10] The Respondent points to two receipts, dated October 15, 2019, and April 1, 2020, that were not before the decision maker. The latter receipt was in fact before the Second Reviewer and is referred to in the decision. However, the October 15, 2019, receipt does not appear to have been before the Second Reviewer, although it was for \$192 and there appears to have been a November 2019 email stating that \$192 was owed for lessons in October. In any event, this receipt is not determinative when evaluating the Second Reviewer's decision, as will be seen below.

[11] The standard of review in this matter is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 25). A reasonable decision carries the qualities of intelligibility, transparency and justification (*Vavilov* at para 99).

V. Analysis

[12] The Second Reviewer's assessment of the evidence reasonably supported its conclusion that Ms. Merali had not established at least \$5,000 of income in 2019. While the Second Reviewer's comments on the lack of correlation between clients indicated on receipts and clients

indicated in calendar entries may not have been completely accurate, this inaccuracy does not impact the overall reasonableness of the decision.

[13] Ms. Merali argues that she “earned more than \$5,800 before taxes of self-employment income in 2019 or in the 12 months prior to the date of the application”. She claims that CRA has never publicly stated that proof of bank transactions is necessary to demonstrate receipts or disbursements. Overall, read charitably in light of the Ms. Merali’s status as a self-represented litigant, her submissions allege that the Second Reviewer mischaracterized her evidence and imposed the requirement that she prove her income through deposits in a banking institution. She states that all of the “acceptable proof and documentation has been submitted.”

[14] The Respondent submits that the Second Reviewer “was entitled to conclude the Applicant’s handwritten receipts and calendar entries did not support her position.” The Respondent also argues that it was reasonable for the Second Reviewer to find that the notice of reassessment is not proof of an accepted tax filing nor proof of income. The Respondent submits that overall, the Second Reviewer was entitled to require further documentation, and that the decision is justified, transparent, and intelligible.

[15] The Second Reviewer’s findings about the insufficiency of the handwritten receipts was reasonable given the lack of corroboration in respect of the other evidence. This was apparent to the Second Reviewer in reference to the amounts not corresponding to: a) the gross self-employment amount for 2019 in the reassessment; b) Ms. Merali’s bank statement amounts; c) the WhatsApp messages; or d) the names in the Ms. Merali’s calendar.

[16] Reviewing the evidence, this finding is reasonable. The total amount shown by the receipts, as noted by the Second Reviewer, was over \$9,000. Ms. Merali's bank statement deposit amounts in her application record do not correspond to any of the receipt amounts, and the other "transaction history" documents for 2019 do not indicate her account number or name, as noted by the Second Reviewer.

[17] Further, nothing in the WhatsApp messages corresponds to the receipt amounts. For example, an individual appears to send an e-transfer on December 3, 2019, in WhatsApp, but the only two e-transfers for December 2019 are on December 6 and appear to be from different people than those indicated in the WhatsApp messenger. The only possible matches for payment are for lessons in October 2019 amounting to the same amount as an e-transfer deposited on December 6, 2019, lessons in October matching ATM deposits on November 19, 2019, and December 3, 2019, and an email on October 11, 2019 stating that \$192 was owed for lessons and there being a receipt for \$192 dated October 15, 2019. This latter receipt is potentially inadmissible, as noted above. In any event, the Court cannot reassess the evidence, and in the circumstances the decision is justified given the evidence.

[18] While Ms. Merali objects to the Second Reviewer's requirement that the handwritten receipts be corroborated, it is justified and transparent to examine whether handwritten notes are sufficiently corroborated to meet the eligibility threshold for the CRB (*Moncada v Canada (Attorney General)*, 2024 FC 117 at para 36). As noted by Justice Sébastien Grammond, "handwritten receipts may not be sufficient evidence of a payment" (*Sjogren v Canada (Attorney General)*, 2023 FC 24 [*Sjogren*] at para 40 [citations omitted]; see also *Mathelier-Jeanty v Canada (Attorney General)*, 2022 FC 1188 at para 24). Further, an applicant paid in cash must "maintain

sufficient records in order to rely on cash payments to support [their] eligibility to the CERB or CRB benefits” (*Zhang v Canada (Attorney General)*, 2023 FC 1761 at para 30 [citation omitted]).

[19] It is a basic of principle of evidence that the trier of fact must determine whether evidence tendered is sufficient to establish, on a balance of probabilities, a proffered fact (see *e.g.*, *Ferguson v Canada (Citizenship and Immigration)*, 2008 FC 1067 at para 27). The Court has found this principle applicable to CRB determinations: “It is for the officer to assess the sufficiency of the evidence. This is an integral part of [their] fact-finding mission. On judicial review, courts do not intervene in this assessment, unless there is a fundamental misapprehension of the evidence” (*Sjogren* at para 43, citing *Vavilov* at para 126). Justice Ann Marie McDonald has noted that the CRA is “entitled to request supporting documentation such as bank statements to substantiate employment income” (*Virani v Canada (Attorney General)*, 2023 FC 1741 [*Virani*] at para 24). The power to require substantiating evidence is also a statutory one, set out by section 6 of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2.

[20] It is true that the Second Reviewer’s statement that there is no correlation between the names in the calendars and the receipts that had been provided is not entirely true. Many of the receipts provide the names of the children or individuals for whom the lesson was for and when the lesson occurred that corresponded directly to the Applicant’s calendars.

[21] Overall, however, the Second Reviewer’s conclusion was reasonable. While many receipts were corroborated by the pencilled-in dates in the calendar for lessons between September and December 2019, the Applicant’s bank statement did not show these cheques being deposited, nor did the Applicant’s bank statements amount to the required income. The Second Reviewer found

that handwritten notes were insufficiently corroborated to establish the fact alleged: that the Applicant made enough income to qualify for the CRB. While the Second Reviewer misapprehended some of the evidence, this error is not sufficient to establish that the Second Reviewer “fundamentally” mischaracterized the evidence (*Vavilov* at paras 125-126). This is not an “exceptional circumstance” where the Court can interfere with a decision maker’s factual findings (*Vavilov* at para 125).

VI. Conclusion

[22] I am sympathetic to Ms. Merali, who is clearly hardworking and offers valuable professional services. However, as I explained at the hearing of this matter, my role is only to determine whether the decision she challenges is reasonable.

[23] Overall, despite the Second Reviewer’s error with respect to some of this evidence, the decision rendered is reasonable. Examining the totality of the evidence, the Second Reviewer was justified in finding that Ms. Merali’s evidence did not establish that she had made at least \$5,000 in self-employment income in 2019. The application for judicial review is dismissed.

JUDGMENT in T-965-23

THIS COURT'S JUDGMENT is that:

1. The named Respondent in the style of cause is amended effectively immediately to replace the Canada Revenue Agency with the Attorney General of Canada.
2. The application for judicial review is dismissed without costs.

"Michael Battista"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-965-23

STYLE OF CAUSE: REHANA MERALI v ATTORNEY GENERAL
OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 3, 2025

JUDGMENT AND REASONS: BATTISTA J.

DATED: FEBRUARY 5, 2025

APPEARANCES:

Rehana Merali	FOR THE APPLICANT (SELF-REPRESENTED)
Casey Bee	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT
--	--------------------