Federal Court Cour fédérale

Date: 20250205

Docket: T-1301-24

Citation: 2025 FC 235

Ottawa, Ontario, February 5, 2025

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

MASOUD VATANKHAH

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] I find that the Minister's decision that Mr. Vatankhah was not eligible to receive the Canada Emergency Response Benefit [CERB] paid to him to be unreasonable. It must be set aside.

I. Facts

[2] The Applicant and his wife operated a small local café in 2019. Theirs was primarily a cash business, with all sales paid upon delivery and later deposited into a bank account via an

automated banking machine [ABM]. They did not issue invoices or sell goods on credit. Like many small businesses, the café was hard hit by the restrictions imposed due to the COVID-19 pandemic. During oral submissions, the Applicant alleged owing a considerable amount of debt. He reported:

> My business closed because of COVID-19 from August 2020, after 25 years. I lost a lot of money. I am retired now.

[3] The Applicant applied for and received CERB benefits for six distinct four-week periods spanning March 15, 2020, to August 29, 2020, specifically: March 15 to April 11, April 12 to May 9, May 10 to June 6, June 7 to July 4, July 5 to August 1, and August 2 to August 29, 2020.

[4] After receiving the initial CERB ineligibility determination by an Officer at Canada Revenue Agency [CRA], the Applicant retained a chartered professional accountant to review his 2019 tax records, which had been previously maintained by a non-designated accountant. The record indicates that the new accountant found several significant accounting errors in the 2019 tax return, including improper recording of rent payments with arbitrary HST amounts and incorrect classification of personal expenses, such as spending on groceries as business expenses. These errors had resulted in an overstatement of business expenses for the 2019 tax year. A T1 Adjustment Request was submitted to CRA through the new accountant with respect to the 2019 tax year showing this adjustment in income. That form contains a certification to be signed by the taxpayer: “I certify that the information given on this form and any documents attached is, to the best of my knowledge, correct and complete.” Attached was a Statement of Business or Professional Income prepared by the accountant.

[5] Following the correction of these accounting errors through an amended tax return, the Applicant's net income for 2019 was calculated at $6,745 and on July 4, 2023, CRA issued a Notice of Reassessment accordingly and advised the Applicant that as a result of this reassessment, he owed a further $478.07 in income taxes.

[6] On June 27, 2023, the new accountant submitted a request for a second review of CERB eligibility, accompanied by documentation detailing the identified accounting errors, a copy of the T1-Adjustment, itemized revenue and expenses using CRA Form T2125, and contact information for any necessary follow-up inquiries.

[7] On September 25, 2023, the accountant contacted CRA to inquire about the status of the second review. During this communication, the Applicant asserts that the accountant requested that any additional information requirements be communicated in writing, because English was not the Applicant's first language.

[8] Between the submission of the second review request and the final decision rendered on April 26, 2024, neither the Applicant nor his accountant received written correspondence. The CRA's records indicate that on April 10, 2024, the Officer left a "detailed vm requesting a call back by deadline." The exact details of this voicemail were not documented.

II. Decisions Below

[9] By the letter dated April 26, 2024, the CRA informed the Applicant that he was not eligible for CERB for all six periods claimed between March 15, 2020, and August 29, 2020.

The Officer determined that he did not earn at least $5,000 of employment and/or self-employment income in 2019 or in the 12 months before his first application.

[10] The Second Review Report shows that the Officer observed that the Applicant's original 2019 income before reassessment was significantly lower than the required income threshold. The Officer noted that while the Applicant submitted bank statements showing ABM deposits and an amended tax return, no supporting documentation such as invoices or receipts were provided to substantiate either the deposits or the amended income calculation of $6,745. The report also noted that attempts to obtain additional information were unsuccessful.

[11] In the final Denial Note, the Officer concluded that without corresponding documentation to verify the source and timing of income, the bank deposits and amended tax return were insufficient to demonstrate the $5,000 income threshold had been met.

III. Legal Framework

[12] CERB was introduced by the federal government through the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [*Act*] as a targeted financial support measure for workers affected by the COVID-19 pandemic. The program, administered by the CRA, provided monetary relief to eligible workers who suffered income loss during the pandemic: *Archer v Canada (Attorney General)*, 2024 FC 1614 [*Archer*] at para 4.

[13] Subsection 5(1) of the *Act* described that the relevant time window for income assistance was any four-week period between March 15, 2020, and October 3, 2020.

[14] Two provisions govern the determination of eligibility. First, benefit applicants must meet the definition of "worker" under section 2 of the *Act*, which requires the applicant to be at least 15 years old, reside in Canada, and have earned at least $5,000 in 2019 or in the 12 months before application from employment, self-employment, specified employment insurance benefits, or provincial pregnancy or childcare allowances. Then, pursuant to subsection 6(1) of the *Act*, applicants must have ceased working for COVID-19-related reasons for at least 14 consecutive days within the relevant four-week period. During those weeks, the applicants could not have received employment or self-employment income, specified employment insurance benefits, or provincial pregnancy or childcare allowances. Applicants who voluntarily quit their work were ineligible per subsection 6(2).

[15] The CRA, as the administering agency, is responsible for reviewing applicants' eligibility through documentary evidence of income. This includes, but is not limited to, tax returns, financial statements, and supporting documentation such as invoices or receipts that substantiate the claimed income threshold: *Archer* at para 41; *Singh v Canada (Attorney General)*, 2024 FC 51 at para 33.

IV. Issue

[16] In my assessment, the sole issue is whether the Officer's decision was reasonable based on the particular facts of this case.

V. Analysis

[17] I accept the Minister's submission that this Court's jurisprudence has consistently held that CRA Notices of Assessment or Reassessment, by themselves, do not conclusively prove

actual income earned because they do not independently verify a taxpayer's earnings. It is instructive to review the words of Justice Strickland in *Aryan v Canada (Attorney General)*, 2022 FC 139 [*Aryan*], the first case from this Court to address COVID-19 benefit eligibility reassessments:

> [35] There is no evidence to support the Applicant's position that the Officer was obliged to accept her 2020 income tax assessment as sole and conclusive proof of her income. And while tax assessments are one document that could provide income information to CRA with respect to CRB eligibility, they do not "prove" that the Applicant actually earned the income that she reported in filing her income tax return, or that her income was earned from an eligible source prior to September 27, 2020, pursuant to ss. 3(1)(d)(i-v) of the *CRB Act*. [emphasis added]

[18] The decisions that follow *Aryan* in holding that tax returns are not conclusive proof of income spend little or no time describing what the values or weight to be given to this information is, if it is not conclusive: See *Cozak v Canada (Attorney General)*, 2023 FC 1571 at para 23; *Khodaverdi v Canada (Attorney General)*, 2023 FC 1710 at para 55; *Sjogren v Canada (Attorney General)*, 2023 FC 24 at para 39; *Ebada v. Canada (Attorney General)*, 2024 FC 1539 at para 38; *Ghukasyan v Canada (Attorney General)*, 2025 FC 140 at para 25. I am also aware that the principle that the tax return is not conclusive is said to reflect the structure of Canada's self-reporting tax system, "the success of [which] depends primarily upon taxpayer forthrightness": *R v Jarvis*, 2002 SCC 73 at paras 49-51.

[19] However, this principle does not mean that the CRA can, without providing case-specific reasons, accept the T1 Adjustment Request and issue a Notice of Reassessment levying tax based on the adjusted 2019 income of $6,745 while simultaneously rejecting those very documents as proof of income for determining CERB eligibility.

[20] My concern is grounded in the basic tenant in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] that administrative decision-makers must provide reasons that fully account for both the legislative scheme and the impact on the affected individual. In this instance, the governing legislation is not a tax enforcement statute but benefits-conferring legislation enacted to provide urgent financial relief to workers affected by COVID-19: *Archer* at para 39; *Mitchell v Canada (Attorney General)*, 2023 FC 858 at para 25; *Yousof v Canada (Attorney General)*, 2023 FC 349 at para 28. Although the self-reporting nature of the tax system may justify a more flexible evidentiary standard for tax purposes, the *Act*'s public welfare purpose calls for more substantive reasoning. Benefit-conferring legislation demand a coherent, claimant-focused evaluative approach consistent with its remedial purpose: *Canadian Pacific Ltd. v A.G. (Can.)*, [1986] 1 SCR 678 [*Canadian Pacific Ltd.*] at para 25.

[21] The benefit-conferring legislation in this case prioritizes accessibility to relief. The *Act*'s design reflects this priority. It has established a simple, fixed income eligibility threshold of $5,000, contrasting sharply with the complex computations required under statutes such as the *Income Tax Act*, RSC, 1985, c 1 (5th Supp) or the *Excise Tax Act*, RSC 1985, c E-15, which are not considered to be benefit-conferring legislation: *Werring v R*, [1997] 3 CTC 2876 (TCC) at para 8; *Canadian Pacific Ltd.* at para 25. This simplicity reflects Parliament's intent to minimize barriers to relief for vulnerable workers during the unprecedented global pandemic.

[22] Here, the absence of substantive reasoning explaining the different evidentiary weight assigned to the same documents undermines this legislative intent. By accepting the T1 Adjustment Request and Notice of Reassessment for tax purposes yet rejecting these documents for CERB eligibility without explanation, the CRA creates an unjustified inconsistency that

undermines the *Act*'s remedial purpose. Therefore, CRA officers need to explain why the same documents deemed sufficient for tax purposes can be instantly viewed as insufficient for CERB assessment, especially given the benefit-conferring nature of the *Act* and the severe consequences for the livelihoods of benefit claimants like Mr. Vatankhah. The explanation need not be extensive, but it must be there: *Vancouver International Airport Authority v Public Service Alliance of Canada*, 2010 FCA 158 at paras 25, and it must grapple with the apparent inconsistency in the treatment of the same documentation.

[23] I am fully aware that administrative decision-makers "play a role, along with courts, in elaborating the precise content of the administrative schemes they administer:" *Vavilov* at para 108 and reviewing courts cannot usurp that role. Nevertheless, I am of the view that the CRA's failure to explain its inconsistent treatment of the same evidentiary documents does not account for the legal context of the *Act* and fails to satisfy the reasonableness standard under *Vavilov*. Such decision-making process deserves no judicial deference.

[24] The proper way to proceed, then, is for CRA to devise an evaluative framework similar to this: either (1) accept its prior validation of the Applicant's income through the Notice of Reassessment as *prima facie* sufficient to meet CERB's eligibility criteria under subsection 2(1) and paragraph 6(1)(a) of the *Act*, absent specific evidence warranting further scrutiny; or (2) provide case-specific reasons explaining why the same documents, in this case the T1 Adjustment Request and Notice of Reassessment, are inadequate for establishing income for CERB purposes. This approach respects both the self-reporting nature of the income tax scheme and the remedial nature of the *Act*. It ensures that the CRA's exercise of discretion remains

coherent, transparent, and justified in light of the *Act*'s benefits-conferring purpose and the significant consequences for affected individuals.

[25] Looking beyond the broader unreasonableness with the CRA's treatment of evidence and focusing only on the decision under review, I still find it unreasonable. I am not "satisfied that 'there is [a] line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived':" *Vavilov* at para 102.

[26] The Officer's Second Review Report contains two fatal analytical flaws. First, the Applicant submitted a T1 Adjustment Request along with a revised Statement of Business Activities, both of which were reviewed and certified by an accountant to confirm a 2019 income of $6,745. However, the Officer dismissed these documents as insufficient without explaining why the accountant's verification lacked substance or how the absence of invoices or receipts discredited the adjusted income figure considering the Applicant's circumstances.

[27] Second, the Officer noted the existence of 2020 deposits alongside a negative 2019 net income but failed to explain how deposits made in 2020 contradict the 2019 income determination. For instance, 2020 deposits could represent delayed payments for services performed in 2019, which would not invalidate the 2019 adjustment. Without explanations, the temporal mismatch cited by the Officer is largely irrelevant to the CERB eligibility period and cannot reasonably support a finding of ineligibility.

[28] I further find the Respondent's reliance on the CRA policy document "Confirming Covid-19 benefits eligibility" which cautions "… amounts in Tax returns or the Notice of

Assessment are self-reported and, as such are not considered to be conclusive proof that the mounts reported were actually earned…" [emphasis added] does not cure the Officer's analytical defect. While CRA policies can inform administrative discretion, they, like all such policies, are not binding law: *Quastel v Canada (Revenue Agency)*, 2011 FC 143 at para 14; *Spence v Canada Revenue Agency*, 2010 FC 52, para 24; *Nixon v Canada (National Revenue)*,2008 FC 917. Deference to administrative expertise under *Vavilov* is earned through demonstrated engagement with the record: *Vavilov* at paras 95 and 96. These principles mean that each applicant's case must be assessed on its merits, on a case-by-case basis. In my view, the Respondent's submission conflates general skepticism in a non-legally binding policy document about self-reported income with the specific evidentiary weight of the Applicant's filings. Without addressing how the Applicant's amended documentation remained insufficient, the Officer did not absolve their duty to conduct a "case-by-case" evaluation anchored in the record.

VI. Conclusion

[29] For these reasons, I find that the decision under review is unreasonable. The Officer inappropriately rejected the stated income from the Notice of Reassessment issued by the CRA without providing any explanation and failed to provide sufficient reasons explaining why the Applicant's submitted materials are inadequate. As a result, the matter is remitted for reconsideration by a different Officer. The Applicant shall be given 30 days to submit any additional documentation and, given his language issues, must receive all inquiries related to the reconsideration in writing or, at a minimum, written notices of any telephone inquiries.

[30] Neither party sought costs, and none will be awarded.

JUDGMENT in T-1301-24

THIS COURT'S JUDGMENT is that

1. This application is allowed, without costs;
2. The decision of CRA regarding recovery of CERB payments is quashed, and sent back to be redetermined by another officer, in keeping with these Reasons; and
3. The Applicant shall have 30 days from the date of this Judgment to submit any additional documentation to CRA, and he must receive all inquiries related to the reconsideration in writing or, at a minimum, written notices of any telephone inquiries.

"Russel W. Zinn"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1301-24
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APPEARANCES:

Masoud Vatankhah	FOR THE APPLICANT (ON HIS OWN BEHALF)
Tiffany Glover	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT