

Federal Court



Cour fédérale

Date: 20250214

Docket: T-1796-24

Citation: 2025 FC 290

Ottawa, Ontario, February 14, 2025

PRESENT: Madam Justice Azmudeh

BETWEEN:

ABDUL BASEER HAI

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Mr. Abdul Baseer Hai, brings this application for judicial review of two decisions relating to his eligibility of the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB]. The Applicant applied to both benefit streams in 2020 and continued to receive funds until October 2021. The Canada Revenue Agency [CRA] reviewed the Applicant's eligibility for the benefits and found he was ineligible for both streams. The Applicant requested a second review and on September 20, 2023, that review also found the Applicant was ineligible for the benefits.

[2] A fresh second review followed, that determined the Applicant was not eligible for the benefits on June 20, 2024. However, the fresh second reviewer [Officer] determined the Applicant qualified for a remission order in respect of the CERB and that the Applicant is entitled to keep the money received from CERB funds. The remission order does not apply to the CRB funds. At the judicial review hearing, the parties stated that the only contested decision is with respect to the Officer's CRB decision.

[3] The parties do not dispute that the Applicant made over \$5,000 in gross, but not in net income during the relevant periods. However, the Applicant stated that at the time he applied for CRB, he did not realize that a different rule applied to it than the previously applied CERB program.

[4] I am sympathetic to the Applicant's situation and have no reason to doubt that he honestly believed he was eligible for CRB. I also understand that he found it frustrating to navigate the multitude of programs and information provided to him. Nevertheless, the only decision for me to assess on judicial review is the reasonableness of the CRB decision.

[5] For reasons that follow, I find the Officer's decision to determine the Applicant ineligible for CRB to be reasonable. I, therefore, dismiss the Applicant's judicial review application.

II. Preliminary Issues

[6] The preliminary issues in this case are:

- a) The Style of Cause
- b) The Applicant's submission of evidence on settlement negotiations.

A. *The Style of Cause*

[7] The Applicant is self-represented and named the CRA as the Respondent.

[8] The Respondent submits that as the Applicant is challenging a decision made by the CRA on behalf of the Minister of Employment and Social Development, the proper Respondent is the Attorney General of Canada.

[9] The Applicant agreed with the Respondent on this point. The style of cause shall be amended to note the "Attorney General of Canada" as the Respondent, in accordance with Rule 303 (2) of the *Federal Courts Rules*, SOR/98-106 [*Rules*].

B. *The Respondent's motion to strike part of the Applicant's record*

[10] In their memorandum, the Respondent requests the Court strike parts of the Applicant's record on the grounds that it contained settlement communications between the parties. The Applicant agreed that the settlement communications should not have been included, and did not contest their removal from the record. I agree that in accordance with Rule 422 of the *Rules*, privileged communication, such as all correspondence and evidence in relation to settlement

discussions should not be before the Court and such communication is therefore not admissible.

Exhibits B and C of the Applicant's affidavit are struck from the record.

III. Background

A. *CRB*

[11] The Applicant is a pensioner who also had an income from driving Uber. The parties do not dispute that after Applicant applied for CERB and received payments for the periods between March 15, 2020, to September 26, 2020, he subsequently applied for CRB. He received CRB payments for the periods from September 27, 2020, to October 9, 2021.

[12] The parties also do not dispute that the Applicant did not earn at least \$5,000 of income of employment income or of net self-employment income in 2019, 2020, or in the 12 months before the date he applied for the CRB.

B. *Judicial Review Issues and Standard of Review*

[13] The only issue before me is reasonableness of the CRB decision. The standard of review applicable in this case is reasonableness (see *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]; see also *Aryan v Canada (Attorney General)*, 2022 FC 139 at paras 15-16 [Aryan]). The parties do not dispute this.

[14] When the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision-maker and to assess whether the decision was based on “an internally coherent and rational chain of analysis” and is “justified in

relation to the facts and law that constrain the decision maker” (*Vavilov* at para 85). The reviewing court must therefore ask “whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility” (see *Vavilov* at para 99; see also *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74). It is up to the party challenging an administrative decision to show that it is unreasonable.

C. *Legislative Framework*

[15] The enabling legislation of the CRB is the *Canada Recovery Benefits Act*, S.C. 2020, c. 12, s 2 [CRB Act]. The aim of the CRB was to support Canada’s economic recovery in response to the COVID-19 pandemic.

[16] The amount of the funds for CRB, for applicants who applied before July 18, 2021 (like the Applicant), was \$500 per week for a maximum of 42 weeks, and \$300 for every subsequent week.

[17] The Minister was required to pay the CRB to any person who made an application under s 4 of the CRB Act, and who was eligible to receive the benefit. Section 3 of the CRB Act spells out the conditions for eligibility. In particular, s 3(2) is determinative in this case:

Income from self-employment

3 (2) For the purpose of paragraphs (1)(d) to (f), income from self-employment is revenue from the self-employment less expenses incurred to earn that revenue (emphasis added).

IV. Analysis

[18] There is no factual dispute between the parties regarding the Applicant's income. The Applicant did not have the minimum \$5,000 from employment, or from self-employment, after deductions during the relevant periods in question. However, the Applicant, who was self-represented aired frustration with a different rule applying to CRB than the previously allowed CERB where the Officer had allowed his gross income, which met the minimum requirement.

[19] Nor does the Applicant dispute that the Officer considered all the documents he had provided on his income.

[20] The Applicant agrees that he had no employment income during the period in question. However, he argues that as an Uber driver, he had earned at least \$5,000 in gross self-employment income. The record shows that in order to conclude that the Applicant did not make at least \$5,000 in net self-employment income, the Officer relied on the Applicant's undisputed evidence of his self-employment income reported on his tax documents as follows:

Year	Gross	Net
2019	51,811	-2,719
2020	1,975	517
2021	0	0

[21] The Applicant stated the multitude of information on various CRA websites led him to believe that the gross, and not the net self-employment income is measured for the CRB. This case demonstrates that since the Government introduced several programs that may have different eligibility criteria, each decision-maker has a duty to assess an Applicant's eligibility under the legal framework for the program they have applied.

[22] In this case, the Officer was aware of the legislative requirement and applied the facts before her to the law. The Officer did not have the discretion to consider gross self-employment income when s 3(2) of the CRB Act provided clear guidance against it.

[23] Although, I understand the Applicant's general frustration with the process and his disagreement with the legal criteria of CRB eligibility, I do not find it contributes to the unreasonableness of the decision.

V. Conclusion

[24] The application for judicial review is dismissed, without costs.

JUDGMENT IN T-1796-24

THIS COURT’S JUDGMENT is that

1. The application for judicial review is dismissed without costs.

“Negar Azmudeh”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1796-24

STYLE OF CAUSE: ABDUL BASEER HAI v. ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: JANUARY 15, 2025

ORDER AND REASONS: AZMUDEH J.

DATED: FEBRUARY 14, 2025

APPEARANCES:

Abdul Baseer Hai	ON HIS OWN BEHALF
Jason Winter	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Department of Justice Canada Ottawa, Ontario	FOR THE RESPONDENT
---	--------------------