

Federal Court



Cour fédérale

Date: 20250708

Docket: T-1046-24

Citation: 2025 FC 1204

Ottawa, Ontario, July 8, 2025

PRESENT: Madam Justice Conroy

BETWEEN:

STENNETTE JOHNSON

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Stennette Johnson, brings this application for judicial review challenging the decision of a Canada Revenue Agency [CRA] officer that she is not eligible for the Canada Emergency Response Benefit [CERB] she received in 2020.

[2] I have no doubt that the Applicant honestly believed she was eligible for CERB when she applied. However, based on the governing legislation, I have no choice but to dismiss her judicial review.

II. Background

[3] Prior to the COVID-19 pandemic, Ms. Johnson worked two jobs as a personal support worker. One was a full-time position, and the other part-time.

[4] A government mandate intended to reduce transmission risks during the pandemic precluded the Applicant from working in more than one nursing home or medical facility. Accordingly, she was required to leave her part-time position.

[5] The loss of the part-time position created financial hardship for the Applicant, who turned to the CERB to replace her lost income.

A. *Application for the CERB*

[6] The *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8, s. 5 [CERB Act] allowed a worker to apply for income support payments for any four-week period [Applicable Payment Period] falling between March 15, 2020, and October 3, 2020.

[7] The Applicant applied for and received CERB during Applicable Payment Periods 1-7, (between March 15, 2020, and September 26, 2020).

[8] By letter dated February 18, 2022, the Applicant was advised by the CRA that her account was selected for review. She was invited to provide supporting documents to confirm her eligibility for the CERB she received. The letter advised that she would not have been eligible for the CERB in any Applicable Payment Periods in which she earned over \$1000 in employment and/or self-employment income.

[9] On March 21, 2022, the Applicant provided the following documents: her 2020 T4 for the part-time position, a letter from the payroll department of her part-time employer advising of her hours and gross earnings in 2020, and several bank statements covering the period between December 31, 2019, and December 31, 2020.

B. *First Level Review*

[10] A CRA officer [First Level Reviewer] reviewed the Applicant's file and determined that she was not eligible for any of the CERB she received.

[11] The First Level Reviewer noted that, although the Applicant lost her part-time position due to the pandemic, she continued to earn employment income from her full-time work. The First Level Reviewer further noted that the Applicant's T4 earnings, which she did not dispute, showed she earned more than \$1000 in employment income during Applicable Payment Periods 1-7.

[12] The CRA issued a decision letter dated June 13, 2023, advising the Applicant that she was not eligible for any of the CERB she received. The letter stated that, if she did not agree with the decision, she could request a second review of her CERB eligibility [Second Level Review].

C. *Request for Second Level Review*

[13] On July 8, 2023, the Applicant requested a Second Level Review. She asserted that the First Level Reviewer did not consider or misinterpreted certain facts or details, or failed to consider them in their proper context. She reiterated that she was working two jobs prior to the COVID-19 pandemic and had to leave one of her jobs due to government restrictions. She

asserted that she did not earn more than \$1000 in income during the Applicable Payment Periods because of the loss of her part-time position.

III. Decision Under Review

A. *Second Level Review*

[14] A CRA officer [Second Level Reviewer] called the Applicant on April 10, 2024, to discuss her file. The Applicant explained how the pandemic affected her income by preventing her from working as a personal support worker at two different facilities. She confirmed that her filed taxes for 2020 were correct. The Second Level Reviewer advised that they would proceed with the review and notify her of a final decision.

[15] Citing the Applicant's T4 slips for 2020, the Second Level Reviewer determined that she made well over \$1000 per Applicable Payment Period and was therefore ineligible for the CERB received.

[16] Accordingly, the CRA issued a decision letter dated April 12, 2024, advising the Applicant that, based on the Second Level Review, she was ineligible for the CERB she received because she made more than \$1000 of employment or self-employment income during the Applicable Payment Periods.

IV. Issues and Standard of Review

[17] The issue on this application is whether the Second Level Reviewer's decision was unreasonable.

[18] The Respondent raises as a preliminary issue whether the Applicant improperly named the CRA as respondent in this application.

[19] The applicable standard of review is reasonableness: *Aryan v Canada (Attorney General)*, 2022 FC 139 at paras 15-16, citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23.

V. Preliminary Issue – Style of Cause

[20] The Respondent properly requests that the style of cause be amended to remove the CRA as Respondent and replace it with the Attorney General of Canada. The style of cause is so amended per Rules 76 and 303(2) of the *Federal Courts Rules*, SOR/98-106.

VI. Statutory Scheme

[21] Together, the CERB Act and the *Income Support Payment (Excluded Nominal Income) Regulations*, SOR/2020-90 [Regulations] create a \$1000 limit on permissible employment and self-employment income in an Applicable Payment Period – beyond this limit, an applicant for the CERB is deemed ineligible.

[22] Specifically, s. 6 of the CERB Act governs eligibility and exclusions from eligibility for the CERB and provides:

Eligibility

6 (1) A worker is eligible for an income support payment if

(a) the worker, whether employed or self-employed, ceases working for reasons related to COVID-19 for at least 14 consecutive days

Admissibilité

6 (1) Est admissible à l'allocation de soutien du revenu le travailleur qui remplit les conditions suivantes :

a) il cesse d'exercer son emploi — ou d'exécuter un travail pour son compte —

within the four-week period in respect of which they apply for the payment; and

(b) they do not receive, in respect of the consecutive days on which they have ceased working,

(i) subject to the regulations, income from employment or self-employment, [...]

pour des raisons liées à la COVID-19 pendant au moins quatorze jours consécutifs compris dans la période de quatre semaines pour laquelle il demande l'allocation;

b) il ne reçoit pas, pour les jours consécutifs pendant lesquels il cesse d'exercer son emploi ou d'exécuter un travail pour son compte :

(i) sous réserve des règlements, de revenus provenant d'un emploi ou d'un travail qu'il exécute pour son compte, [...]

Regulations

[6](3) The Minister may, by regulation,

(a) exclude a class of income from the application of subparagraph (1)(b)(i); [...]

Règlements

[6](3) Le ministre peut, par règlement :

a) soustraire à l'application du sous-alinéa (1)b(i) toute catégorie de revenus; [...]

[23] Pursuant to s. 6(3)(a) of the CERB Act, the Minister of Employment and Social

Development promulgated the Regulations, which provide at s.1:

Excluded Class of Income

Nominal income

1 Any income received by a worker for employment or self-employment is excluded from the application of subparagraph 6(1)(b)(i) of the Canada Emergency Response Benefit Act if the total of such income received in respect of the consecutive days on which they have ceased working is \$1000 or less.

Catégorie de revenus soustraite

Revenu nominal

1 Sont soustraits à l'application du sous-alinéa 6(1)b(i) de la Loi sur la prestation canadienne d'urgence les revenus du travailleur provenant d'un emploi ou d'un travail qu'il exécute pour son compte, à condition que le total de tels revenus soit de mille dollars ou moins pour les jours consécutifs pendant lesquels il cesse d'exercer son emploi ou d'exécuter un travail pour son compte.

VII. Analysis

[24] The Second Level Reviewer's decision is not unreasonable.

[25] The Second Level Reviewer relied on the Applicant's 2020 T4 information, which reflects that she earned a total of \$69,845 in that year, \$12,193.76 of which came from her part-time position. The Applicant confirmed that she received her pay from her full-time work bi-weekly throughout the Applicable Payment Periods. It is clear she made well over \$1000 in employment income during the relevant periods and, although she did not know it, was ineligible for the CERB as a result.

[26] In oral argument the Applicant explained that at the time she applied for CERB she believed she was eligible because she lost a job due to pandemic restrictions and was struggling to pay her bills and buy groceries. She said that, at the time the CERB was rolled out, even the CRA agents appeared to find the eligibility rules confusing. Ms. Johnson candidly acknowledged that had she known she wasn't eligible she would have never applied for the benefits.

[27] She also reminded the Court of the critical role played by personal support workers in seniors' homes during the pandemic and the public's recognition of their heroic work.

[28] I have significant sympathy for Ms. Johnson. She performed critical and risky work as a frontline healthcare worker during the pandemic. I accept that she applied for the CERB because she was looking for financial relief from the loss of one of her jobs, which was the direct result of pandemic restrictions. Further, I have no reason to doubt that Ms. Johnson honestly believed

she was eligible for the CERB and, like the vast majority of people, she would not have read the CERB Act and its regulations: *Khalid v Canada (Attorney General)*, 2023 FC 1356 at para 26.

[29] However, the Second Level Reviewer, and this Court, are bound by the applicable legislation. In this judicial review, I am limited to considering whether the Second Level Reviewer made an error based on the CERB Act and Regulations. I can find no such error, and therefore I must conclude that the decision is not unreasonable and dismiss the application.

VIII. Conclusion and Costs Disposition

[30] This application for judicial review is dismissed.

[31] Both parties seek their costs on this application. This is not an appropriate case to award any costs. The Applicant is a self-represented litigant and while she was unsuccessful, she brought her application in good faith to have her circumstances considered: see *Khan v Canada (Attorney General)*, 2024 FC 1840 at para 25.

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to identify the Respondent as the Attorney General of Canada.
2. The application for judicial review is dismissed without costs

"Meaghan M. Conroy"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1046-24

STYLE OF CAUSE: STENNETTE JOHNSON v. ATTORNEY GENERAL
OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 18, 2025

REASONS AND JUDGMENT: CONROY J.

DATED: JULY 8, 2025

APPEARANCES:

Stennette Johnson

FOR THE APPLICANT
(ON HER OWN BEHALF)

Caitlin Ward

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT