

Federal Court



Cour fédérale

Date: 20250710

Docket: T-2287-24

Citation: 2025 FC 1232

Ottawa, Ontario, July 10, 2025

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

CREUSA SOUZA

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Creusa Souza [Applicant], seeks judicial review of a Canada Revenue Agency [CRA] decision finding them ineligible for the Canada Emergency Response Benefit [CERB] and requiring the reimbursement of an amount of \$2,000 that was obtained as an advance payment for the CERB.

[2] For the following reasons, the application is granted. Based on the reasons, the evidence, and record before me, I am satisfied that the Applicant has met their burden to demonstrate that the CRA decision is unreasonable. The CRA decision is neither intelligible nor responsive to the arguments submitted by the Applicant on their reimbursement of the \$2,000 amount to Service Canada, and as to why the CRA cannot consider that reimbursement as sufficient. The Court is satisfied “that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 100 [*Vavilov*]).

II. Facts

[3] The Applicant’s earnings were affected by the COVID-19 pandemic. Unsure as to how to apply for COVID benefits, they applied for Employment Insurance [EI] benefits for the period of March 15, 2020, to April 11, 2020. The Applicant received EI benefits for that period of time. The EI benefits included an advance payment made by Service Canada [EI advance payment] by cheque that the Applicant did not deposit in their bank account.

[4] However, for the same period of March 15, 2020, to April 11, 2020, the Applicant also applied for CERB and received an advance payment of \$2,000 by direct deposit into their bank account [CERB advance payment].

[5] The CRA eventually realized that the Applicant had received EI benefits for the same period for which they had also received an advance payment of CERB. On September 8, 2022, the

CRA sent a notice of redetermination to the Applicant and requested the reimbursement of the CERB advance payment for an amount of \$2,000.

[6] On May 23, 2023, the Applicant sent a letter to the CRA, as part of their submissions on the CRA's second review of their eligibility for CERB benefits. In that letter, the Applicant submitted that they were misinformed on the applicable programs for COVID-19 relief. The Applicant stated that when the CRA informed them that they had to repay the CERB advance payment of \$2,000 to the CRA, they sent the EI advance payment obtained by cheque from Service Canada for their EI benefits (which the Applicant never deposited in their bank account) back to Service Canada. The Applicant submitted that the CRA is asking them to pay back the CERB value that was already returned to Service Canada and that, accordingly, the CRA should review the information and stop the procedure to obtain the reimbursement of monies that were already returned to a Canada agency or department.

[7] The record demonstrates that the CRA communicated with Service Canada regarding the Applicant's reception of EI benefits. Service Canada confirmed that the Applicant had received EI benefits for the same period for which they applied for CERB.

[8] Critically, Service Canada confirmed that the Applicant had returned the \$2,000 EI advance payment. But there is no evidence suggesting that the Applicant owed these funds to Service Canada for any overpayment in EI benefits received for the periods for which the Applicant applied. In other words, there is no evidence that the Applicant owed \$2,000 to Service

Canada, which would explain the reason for the return of the EI advance payment to Service Canada.

[9] In a decision dated August 9, 2024, the CRA concluded that the Applicant did not meet the criteria for CERB eligibility because they received EI benefits for the same period for which they applied for CERB benefits. The CRA claimed the reimbursement of the \$2,000 amount that was deposited directly into the Applicant's bank account as a CERB advance payment. The CRA decision did not address the Applicant's submissions that the monies had already been returned, through Service Canada.

[10] The Applicant does not contest the CRA's decision regarding their ineligibility for CERB benefits. The Applicant only claims that they have already reimbursed the \$2,000 amount, by sending the \$2,000 cheque for EI advance payment that was not deposited back to Service Canada.

III. Issues and Standard of Review

[11] The sole issue is whether the decision under review is reasonable. In this respect, the role of a reviewing court is to examine the decision maker's reasoning and determine whether the decision is 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; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64). Although the party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100), the reviewing court must ask "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99).

IV. Analysis

[12] The CERB was introduced by the Government of Canada through the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [CERBA] as part of a set of measures in response to the consequences caused by the COVID-19 pandemic.

[13] In order to receive the CERB, an eligible Canadian resident had to submit an application for any four-week period falling between the period beginning on March 15, 2020, and ending on September 26, 2020.

[14] However, an applicant for CERB benefits is not eligible if they receive EI benefits during the same period (CERBA, s 6(1)(b)(ii)).

[15] In this particular case, the Applicant admits to not being eligible for CERB, and having received a \$2,000 advance payment in CERB benefits that they must reimburse. However, the Applicant submitted to the CRA having already returned the monies to Canada.

[16] Indeed, the Applicant explained having applied for EI benefits and, under subsection 153.7(1.1) of the *Employment Insurance Act*, SC 1996, c 23, received an EI advance payment of \$2,000 by way of cheque from Service Canada for their EI benefits. The Applicant did not deposit that cheque.

[17] Uncertain as to how the programs functioned, the Applicant also applied for CERB benefits and received another advance payment of \$2,000, that time by direct deposit in their bank account.

[18] Having received EI benefits for the same period, the Applicant was informed by the CRA that the \$2,000 CERB advance payment had to be reimbursed. In order to do so, and being confused in this regard, the Applicant sent the \$2,000 EI advance payment received by cheque from Service Canada (which was never deposited) back to Service Canada. It is apparent that the Applicant sent the reimbursement to the wrong federal entity, Service Canada instead of the CRA. Perhaps it would have been prudent for the Applicant to deposit their EI advance payment cheque from Service Canada in their bank account and reimburse the CRA with other funds. However, the Applicant explained in their submissions that they thought returning the EI advance payment cheque was the right thing to do, but misunderstood what was needed.

[19] The Applicant clearly made the CRA aware of the situation in their submissions dated May 23, 2023, and that the \$2,000 had therefore already been returned.

[20] However, in their reasons, the CRA does not address the Applicant's submissions in this regard. The CRA does not dispute the Applicant's reimbursement to Service Canada nor allege that the reimbursement to Service Canada was for a different debt owed by the Applicant to Service Canada, and not to reimburse the CRA as claimed by the Applicant. The CRA does not provide any reason for dismissing the Applicant's explanation regarding the reimbursement already made. The reasons also do not respond to the Applicant's submission and request that the \$2,000 reimbursement made to Service Canada be applied to the debt owed to the CRA for the CERB

advance payment—and the CRA did not take the position nor provide reasons as to why it cannot do so. In the end, the CRA reasons do not explain why the Applicant’s reimbursement is not sufficient, or cannot qualify, as a reimbursement of the \$2,000 CERB advance payment.

[21] As held by the Supreme Court of Canada in *Vavilov* at paragraph 128: “a decision maker’s failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it.” Moreover, justification, transparency, and intelligibility require that an administrative decision maker’s reasons meaningfully account for the central issues and concerns raised by the parties (*Vavilov* at para 127).

[22] In this particular case, in the absence of reasons on the Applicant’s submissions that they had already reimbursed the amount, and the absence of evidence in the record demonstrating that the CRA actually paid attention to the issue and determined, in their communications with Service Canada, whether the Applicant’s return of the \$2,000 EI advance payment cheque to Service Canada was indeed to cover the CERB advance payment (and not to reimburse any debt owed to Service Canada), the Court cannot be satisfied that the CRA’s decision is reasonable in that regard. Therefore, the Court has lost confidence in the outcome reached (*Vavilov* at para 106).

V. Conclusion

[23] The decision on the CRA’s request for a reimbursement of the CERB advance payment is quashed and remitted to the CRA for redetermination. The CRA must consider the Applicant’s submission that a reimbursement was already made through Service Canada. To the extent that the

return of the EI advance payment cheque to Service Canada could only have been intended to cover the reimbursement of the CERB advance payment (and not of another debt owed to Service Canada), the CRA must respond to the Applicant's request as to whether that return can satisfy the reimbursement of the CERB advance payment, or if any additional procedure must be undertaken by the Applicant in that regard.

[24] The application for judicial review is accordingly granted.

JUDGMENT in T-2287-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is granted, without costs.
2. The CRA must consider the Applicant’s submission that a CERB reimbursement was already made through Service Canada. If the reimbursement through Service Canada cannot be accepted, because the Applicant was also required to reimburse the EI advance payment received by cheque from Service Canada or for any other reason, the CRA must provide reasons accordingly.
3. To the extent that the return of the EI advance payment cheque to Service Canada could only have been intended to cover the reimbursement of the CERB advance payment, the CRA must respond to the Applicant’s request that the return satisfy the reimbursement of the CERB advance payment, or provide information if any additional procedure must be undertaken by the Applicant in that regard if the CRA cannot accept that type of reimbursement.

“Guy Régimbald”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2287-24

STYLE OF CAUSE: CREUSA SOUZA v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: EDMONTON (ALBERTA)

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JUDGMENT AND REASONS: RÉGIMBALD J.

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APPEARANCES:

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(ON THEIR OWN BEHALF)

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