

Federal Court



Cour fédérale

Date: 20250902

Docket: T-1667-24

Citation: 2025 FC 1446

Ottawa, Ontario, September 2, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

MARYLYNN MENTIS

Applicant

and

CANADA REVENUE AGENCY

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of a June 4, 2024, decision made by the Respondent Canada Revenue Agency [CRA] to not complete a second review of the Applicant's eligibility for the Canada Emergency Respondent Benefit [CERB] and the Canada Recovery Benefit [CRB] monies she had applied for and had received. The CRA declined to complete a second review of the Applicant's eligibility because the Applicant's request for a second review was made beyond the 30-day time period within which the Applicant could have requested a second review.

[2] The Applicant represents herself in this proceeding. She argues that the CRA did not proceed fairly and that she did not ask for a second review of her eligibility to receive CERB or CRB monies.

[3] The Applicant primarily sought to have this Court reverse the CRA's February 6, 2023, decisions that she was not eligible to receive CERB or CRB monies [the Eligibility Decisions] and her consequent obligation to repay the monies she received. The CRA's Eligibility Decisions are not before the Court for judicial review and have not been the subject of a proceeding before this Court. The Eligibility Decisions are not at issue and cannot be reversed or set aside through this proceeding.

[4] Even if the Eligibility Decisions were at issue, the Applicant would be asking this Court to reweigh or reassess the evidence she submitted to the CRA and substitute its decision for the CRA's Eligibility Decisions. This is not something that this Court can do on an application for judicial review unless the decision maker, the CRA in this case, has committed fundamental errors in fact-finding that undermine the acceptability of its decision (*Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3 [*Doyle*]). The Court can only do so in exceptional circumstances and nothing in the record suggests that the circumstances of this case falls within the scope of exceptional circumstances that would justify the Court to reweigh or reassess the evidence submitted to the CRA for the purposes of the Eligibility Decisions (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 125 [*Vavilov*]).

[5] The Applicant's application for judicial review is dismissed for the reasons that follow.

I. **Background**

[6] The Applicant, a self-employed person working in the field of events and funerals, applied for CERB and/or CRB and received CERB and CRB monies between March 2020 and October 2021. As was the case with many CERB and CRB recipients, the benefit monies were paid out to the Applicant following the submission of her application but prior to a review of the submitted application to determine whether she met the benefit eligibility requirements set out in the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [the *CERB Act*], or the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [the *CRB Act*].

[7] The Applicant's application was eventually assigned to a CRA benefits compliance officer for their review to determine whether the Applicant was eligible to receive CERB or CRB monies.

[8] The CRA wrote to the Applicant on June 30, 2022, and explained that her application had been selected for review. The CRA requested that the Applicant provide it with documentation, identified in the letter to demonstrate that she met the CERB and/or CRB eligibility requirements to receive the monies she had already received. The letter explained that the Applicant must have earned at least \$5,000 in 2019, 2020, or in the 12 months before the date of her application in order to be eligible for COVID-19 benefits.

[9] In response to the June 30, 2020, letter, the CRA received a letter from the Applicant on July 14, 2022, in which requested a time extension for her response.

[10] The CRA sent another letter dated August 10, 2022, to the Applicant in which the CRA set out that it had made an error in its June 30, 2022, letter. The August 10, 2022, letter sets out in its first paragraph, “Upon further review, it has been determined that the letter sent to you on June 30, 2022, was sent in error. Please disregard.” The letter continued, in salient part, as follows:

“Our records show that you received Canada Emergency and/or Recovery and/or Lockdown Benefits during the periods listed below:

Canada Emergency Response Benefit (CERB): March 15, 2020 to April 11, 2020

Canada Recovery Benefit (CRB): December 20, 2022 to October 23, 2021.”

In order to support your eligibility, we require the documents listed in the following pages for each indicated. The documents requested are based on the payments received, information we have on file, and specific criteria for each benefit.

Proof of earnings over \$5000

In order to be eligible for COVID-19 benefits, you must have:

- earned at least \$5000 in 2019 or in the 12 months prior to the date you applied (for Canada Emergency Response Benefit) or
- earned at least \$5000 in 2019 or in the 12 months prior to the date you applied (for Canada Recovery Benefit [...])”

[11] The August 10, 2022, letter also explicitly set out, like the June 30, 2022, letter had, that:

“In order to support that you earned at least \$ 5,000 in 2019, 2020, 2021 or in the 12 months before the date you applied, we require further documentation. Documents can include, but are not limited to:

[...]

If you are or were self-employed:

- invoice(s) for services rendered that includes the service date, who the service was for, in the name of the individual or company
- receipt of payment for the service or services provided (showing the payment and the remaining balance owed)
- documents showing income earned from a “trade or business” as a sole proprietor, an independent contractor, or a partnership
- any other document(s) that will confirm you earned \$5,000 employment or self-employment income

Please provide all of the requested documents within 45 days from the date of this letter. If you do not reply, or do not provide the requested information by this date, you may be required to repay amounts already received.

[...]

When we have completed our review, we will send you a letter to advise you of our decision.”

[12] The Applicant did not respond to the August 10, 2022, letter within the 45 days set out in the letter itself. The CRA contacted the Applicant by telephone on September 22, 2022, and requested that the Applicant submit her 2019 and 2020 bank statements and corresponding invoices to support her claim that she had met the self-employed income eligibility requirements of the *CERB Act* and the *CRB Act*. The Applicant was provided a limited extension of time to deliver her documents.

[13] The CRA assessed the information it had on file for the Applicant by the end of December 2022 including the Applicant’s 2020 and 2021 T4A forms and tax returns. The CRA determined that the Applicant’s reported gross and net business income for 2019 was less than \$5,000, and, that while the Applicant had gross business income in 2020 that exceeded \$5,000,

her net business income was less than \$5,000. The CRA determined that the documents received from the Applicant to that time were not sufficient to validate her eligibility for the benefits she had received. The parties acknowledge that there was a document transmission and retrieval error within CRA when it had received some of the documents submitted by the Applicant. The CRA determined that it needed to follow-up with the Applicant and request documents such as invoices, receipts and bank statements to validate her income.

[14] A CRA representative and the Applicant spoke by telephone on January 4, 2023. The CRA representative answered the Applicant's questions regarding the difference between gross business income and net business income for CERB or CRB eligibility during the telephone call and verbally informed the Applicant of the income thresholds to be met for CERB and CRB eligibility.

[15] The Applicant spoke with the same CRA representative again on January 5, 2023. The Applicant explained her sources of income during the call and stated that she had sent 11 pages of supporting documentation to the CRA for its consideration.

[16] The Applicant spoke with the same CRA representative again on January 6, 2025. The CRA representative explained that the documentation then available to CRA, which may have been incomplete due to internal CRA issues, was not sufficient to validate her eligibility for the benefits.

[17] The Applicant submitted additional documents to the CRA in mid January 2023 with the hope that the documents being transmitted would resolve the question of her eligibility. The documents included bank statements, letters explaining that she had different income streams, and a description of the income streams and the monies received in connection with them. The documents were received by the CRA on or about January 18, 2023.

[18] The CRA reviewed the Applicant's documentation and determined that the Applicant's submitted documentation was not sufficient to validate her self-employment income or her eligibility for CERB and CRB.

[19] The CRA sent its Eligibility Decisions to the Applicant on February 6, 2023. The Eligibility Decisions set out that the CRA had determined, based on its review of the information available to it, that the Applicant was not eligible for CERB or CRB because she had not earned at least \$5,000 before taxes of employment income or self-employment income in 2019, 2020, or in the 12 months before the date of her first application. The Eligibility Decisions explicitly set out the Applicant's opportunity to request a second review of the CRA's decisions as follows:

“If you do not agree with this decision, you may request a second review within 30 days of the date of this letter. The second review will be completed by an officer who was not involved in the first review and decision.

Your request must include the following:

- The reason why you disagree with the CRA's decision, for example not all information was considered, certain facts or details were missing or misinterpreted or not considered in their proper context
- any relevant new documents, new facts, or correspondence

- general contact information, your current home address and current phone number”

[20] On September 1, 2023, the Applicant sent a letter to the CRA. The letter was received by the CRA on September 8, 2023. The Applicant requested the CRA’s assistance with her CERB and CRB eligibility and the CRA’s demands that she repay the benefit monies she had received. There is no reference in the letter to the CRA’s Eligibility Decisions and no explicit request for the CRA to conduct a second review of the Applicant’s eligibility for CERB or CRB.

[21] The CRA interpreted the Applicant’s September 1, 2023, letter as being a request for a second review of her CERB and/or CRB eligibility. A different CRA representative reviewed the Applicant’s submissions and file documentation without additional notice to the Applicant but in accordance with the CRA’s internal guidelines pertaining to letters communicating a CRA decision to not grant a second review. These types of letters are referred to by the CRA as “no adjustment letters”.

[22] The CRA informed the Applicant by way of letter dated June 4, 2024, that her request for a second review of her eligibility for CERB and/or CRB was denied because the request had not been made within the 30-day deadline for a second review request set out in the Eligibility Decisions.

[23] The June 4, 2024, CRA decision is the decision for which the Applicant seeks judicial review.

II. **Issues**

[24] The Applicant argues that the CRA made three “procedural defects” that breached her procedural fairness rights in assessing her eligibility documentation and made it so that the CRA acted unreasonably. She also argues that she did not request a second review of her eligibility to receive CERB or CRB because she understood that the first review was ongoing.

[25] The Respondent argues that the CRA’s decision to not provide the Applicant with a second review was arrived at in a procedurally fair manner and is reasonable and should not be interfered with.

III. **Standard of Review**

[26] The Applicant does not make submissions with respect to the standard of review that applies in this proceeding, although she argues that she has exhausted all remedies available to her through the CRA.

[27] The Respondent submits that the applicable standard of review is the reasonableness standard of review that has been held to apply to the judicial review of CERB eligibility decisions (*Aryan v Canada (Attorney General)*, 2022 FC 139, at para 16; *Flock v Canada (Attorney General)*, 2022 FC 305, at para 15).

[28] As the issue before the Court is the judicial review of the CRA’s June 4, 2024, decision to not grant the Applicant a second review of her CERB and/or CRB eligibility, it is insufficient to rely on this Court’s previous determination on the standard of review applicable to the judicial

review of CERB eligibility decisions because there is no eligibility decision at issue in this proceeding.

[29] As explained in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 39 to 44, in *Vavilov* at para 16, 17 and 70, and in *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at para 27, administrative decisions are presumptively reviewed on the standard of reasonableness unless the presumption is rebutted. The presumption may be rebutted where the legislature has indicated that it intends a different standard or set of standards to apply, or where the rule of law requires that the standard of correctness be applied.

[30] The presumption of reasonableness is not rebutted in this case as neither the *CERB Act*, nor the *CRB Act* explicitly prescribe a standard of review or provide a statutory appeal mechanism from an administrative decision to a court. A standard of correctness is not required based on the rule of law as there is no general question of law at issue that requires a uniform and consistent answer because of its impact on the administration of justice as a whole or for other institutions of government (*Mason* at paras 46 and 47). The standard of reasonableness therefore applies to the CRA's decision to not grant a second review.

[31] As explained in *Vavilov* at paragraphs 12-13 and 84, the reasonableness standard of review is a robust form of review that ensures that courts intervene in administrative matters only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process. It finds its starting point in the principle of judicial restraint and demonstrates a respect for the distinct role of administrative decision makers. However, it is not

a “rubber-stamping” process or a means of sheltering administrative decision makers from accountability. A reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with “respectful attention” and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion.

[32] A reasonable decision is one that is both based on an internally coherent reasoning and justified in light of the legal and factual constraints that bear on the decision. The reviewing court asks whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov* at pas 99).

[33] The burden is on the party challenging the decision to show that it is unreasonable. Before a decision can be set aside on this basis, the reviewing court must be 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. Any alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision. It would be improper for a reviewing court to overturn an administrative decision simply because its reasoning exhibits a minor misstep. Instead, the court must be satisfied that any shortcomings or flaws relied on by the party challenging the decision are sufficiently central or significant to render the decision unreasonable (*Vavilov* at para 100).

[34] The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances including the factors enumerated in *Baker v Canada*

(*Minister of Citizenship and Immigration*), 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at paras 21-28. The Court asks, with a sharp focus on the nature of the substantive rights involved and the consequences for an individual, whether a fair and just process was followed. The reviewing exercise is “best reflected in the correctness standard” even though, strictly speaking, no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54).

[35] As mentioned above, this Court cannot reweigh or reassess the evidence that was before the administrative decision maker and substitute its decision for the decision maker’s decision on judicial review unless the decision maker has committed fundamental errors in fact-finding that undermine the acceptability of its eligibility decision (*Doyle* at para 3).

IV. **Arguments and Analysis**

[36] The relative difficulty with this proceeding is that the relief actually desired by the Applicant, that of having the Court find that the CRA’s Eligibility Decisions are unreasonable because the CRA did not appropriately consider the evidence submitted, is not a matter that is before the Court for adjudication.

[37] While the Court appreciates that the Applicant represents herself in this proceeding and is sympathetic to the position in which she finds herself, the latitude that the Court should allow to a self-represented litigant cannot give her any additional rights or special dispensations from complying with the applicable Rules set out in the *Federal Court Rules*, SOR/98-106, or the

governing law (*Cotirta v Missinnipi Airways*, 2012 FC 1262 at para 11; Rule 122(a) of the *Federal Courts Rules*).

[38] The Court must adjudicate the matter before it as framed and presented by the Applicant in her notice of application. The Applicant's sought relief as set out in her notice of application is drafted as follows:

“This is an application for judicial review in respect of:

Letter of June 4 2024 sent by, S Constantin, Canada Emergency Benefits Validation;

Letter of October 17 2023 sent by Bob Hamilton, Commissioner of Revenue; and

Letter of August 15 2023 sent by Bob Hamilton, Commissioner of Revenue.

Judicial Review is being sought in respect of a decision letter dated June 4 2024 sent to me from the Canada Revenue Agency (CRA) regarding an amount of \$35,600 CAD owed as outlined in the letters of August 15 and October 17 2023, both sent by Bob Hamilton, Commissioner of Revenue.”

[39] The Applicant argues that the CRA's June 4, 2024, decision is unreasonable because it suffers from three “procedural defects” that breach her rights of procedural fairness, and because she did not request a second review by CRA.

[40] The first “procedural defect” alleged by the Applicant is that the CRA decided that she was not eligible to receive CERB or CRB on November 26, 2020, prior to her 2020 tax return being filed. This argument must be rejected because the Applicant's notice of application sets out that she is seeking judicial review of the June 4, 2024, CRA decision to not grant her a second

review. The argument made is with respect to the Eligibility Decisions and not with respect to the decision under review in this proceeding.

[41] The second “procedural defect” alleged by the Applicant is that the Eligibility Decisions did not acknowledge that the CRA had received the documentation the Applicant had submitted to CRA following her January 2023 telephone conversations with a CRA representative, and did not indicate whether the decision related to the first or second copy of the paperwork she had submitted. This argument must be rejected for two reasons.

[42] First, as mentioned above, the Eligibility Decisions are not the subject of judicial review in this proceeding and therefore are not at issue. The argument presented is therefore not probative. Any “procedural defects” that relate to the Eligibility Decisions are not at issue in this proceeding.

[43] Second, the Applicant’s argument is factually inaccurate as it fails to take into account that the Eligibility Decisions set out that the CRA had “considered all the information available” to the CRA and that the CRA’s case notes produced in the record reflect that the CRA reviewer did, in fact, consider the additional documents submitted by the Applicant in January 2023.

[44] The third “procedural defect” alleged by the Applicant is that the CRA erred in its assessment of the facts with respect to her eligibility or request for a second review. The Applicant argues that the June 4, 2024, decision letter is not accurate in stating that the Applicant

did not request a second review within the 30 days following the February 6, 2023, first review decisions because:

- a) the Applicant had re-submitted documentation in support of her eligibility for CERB and CRB on January 18, 2023, and CRA did not acknowledge receipt of the documentation she had sent;
- b) she confirmed with a CRA representative during a June 11, 2023, phone call that the CRA had received the Applicant's paperwork delivered on January 18, 2023, and it is therefore factually inaccurate for CRA to state that it did not receive the Applicant's paperwork for a second review; and
- c) she only contacted the CRA in September 2023 because the CRA's communications had become by that time so erroneous and convoluted that she considered that it required intervention, not to request a second review of her eligibility.

[45] This third "procedural defect" argument must also be rejected.

[46] The record reflects that the CRA had received and considered the Applicant's documentation that was received on January 18, 2023. She sent her documentation by registered mail and, in early January 2023, left a voicemail for the CRA representative confirming that the additional documents were delivered to the Sudbury Tax Centre on January 18, 2023. There was no requirement for the CRA to acknowledge receipt of the documentation submitted by the Applicant.

[47] The Applicant argues that CRA's statement that it did not receive her paperwork for a second review is factually inaccurate because a CRA representative confirmed on June 11, 2023, that documents delivered on January 18, 2023, were received. This argument must be rejected. The June 4, 2024, decision concerns a second review request allegedly made on September 1, 2023, after the February 6, 2023, Eligibility Decisions. The June 4, 2024, decision does not turn on the eligibility documents delivered on January 18, 2023.

[48] The Applicant's argument that she only contacted the CRA in September 2023 because the CRA's communications had become, by that time, so erroneous and convoluted that she considered that it required intervention must also be rejected.

[49] The record reflects that the Applicant sent a letter dated September 1, 2023, to the CRA. In that letter, the Applicant requested the CRA's assistance with the assessment of her CERB and CRB eligibility and a demand that she repay the benefits she had received. The Applicant's letter was worded as follows:

"Please help. I need a contact phone number or a real person to assist me with the Covid-19 benefits program. August 15th 2023 CRA again sent letters requesting that I pay back the Covid-19 benefits that I received.

My plight is that all qualifications have been met to render social insurance # [...] legally able to have received the monetary amounts quoted in your letters.

A quick review... all requested documents were sent by registered mail to Sudbury and received. A telephone request wanted additional bank statements. These were sent to Sudbury again by registered mail and received. All this with no follow up. Did the agent on the phone in Vancouver ever receive the one page requested?

The split year category to qualify for Covid-19 benefits is the problem I believe. I received a letter asking me about my qualifications before my 2020 taxes were even filed. I realize this was a general information letter, however. During the last nine months of 2019 and the first three months - March 15th 2020 I made \$ 6,735.00 net as an independent contractor. Filed taxes are up to date.

Please help. Have someone contact me.”

[50] There is no suggestion in the Applicant’s words that the reason for her September 1, 2023, letter was because of erroneous and convoluted communications.

[51] The Applicant’s September 1, 2023, letter communicated her request for assistance with the CERB and/or CRB monies repayment following the Eligibility Decisions and her belief that she met the eligibility requirements.

[52] While the words “second review” were not used by the Applicant, the nature of the request for assistance set out in the letter reflect that the Applicant questioned the basis upon which she was found to be ineligible for COVID-19 benefits and wanted CRA to reconsider its determination that she was not eligible.

[53] The CRA interpreted the Applicant’s September 1, 2023, letter as a request for a second review of her eligibility to receive CERB or CRB, despite the absence of the words “second review” or any reference to the Eligibility Decisions that had gone unchallenged. Considering the evidence in the record, the notes made by the CRA agents in connection with the Applicant’s eligibility, the documentation submitted by the Applicant to the CRA and the Eligibility

Decisions, it was not unreasonable for the CRA to interpret the Applicant's September 1, 2023, letter as a request for a review of her CERB and CRB eligibility.

[54] While the Applicant may consider that she had not requested a "second review" of her CERB and/or CRB eligibility through her September 1, 2023, letter, its wording, read in the larger context of her applications for CERB and CRB and eligibility review, can be reasonably understood as indicating that she was seeking a review of her submitted documents and eligibility.

[55] The CRA reviewed its records and determined that the review available to the Applicant in response to her September 1, 2023, letter was a second review. The CRA considered the content of the Applicant's September 1, 2023, letter and determined that it was submitted out of time.

[56] The CRA's decision to not complete another review of the Applicant's eligibility as set out in the June 4, 2024, decision cannot be said to be unreasonable. The decision under review is based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrained the decision maker. The Court must defer to such a decision (*Vavilov* at para 85).

[57] The Applicant has not established that the June 4, 2024, decision was unreasonable. The Applicant's application for judicial review will therefore be dismissed.

[58] The Applicant's allegations that the CRA breached her rights of procedural fairness in connection with the June 4, 2024, decision is not established in fact or in law. The CRA assessed the Applicant's September 1, 2023, letter under the criteria for a second review set out in the Eligibility Decisions and concluded she did not satisfy those criteria. No procedural fairness issue arose in this circumstance.

[59] The Applicant's remaining allegations that the CRA breached her rights of procedural fairness are all made in connection with the Eligibility Decisions that are not under review in this proceeding. The Court therefore declines to make any findings regarding the allegations of procedural unfairness pertaining to the Eligibility Decision beyond the factual observations made above.

V. **Conclusions and Costs**

[60] In the result, the Applicant's application for judicial review will be dismissed.

[61] The Respondent is not seeking its costs of this proceeding.

JUDGMENT in T-1667-24

THIS COURT'S JUDGMENT is that:

1. The Applicant's application for judicial review is dismissed.
2. No costs award is made in connection with this proceeding.

"Benoit M. Duchesne"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1667-24

STYLE OF CAUSE: MARYLYNN MENTIS v. CANADA REVENUE
AGENCY

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: AUGUST 28, 2025

JUDGMENT AND REASONS: DUCHESNE, J.

DATED: SEPTEMBER 2, 2025

APPEARANCES:

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(SELF-REPRESENTED)

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FOR THE RESPONDENT

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