

Federal Court



Cour fédérale

Date: 20250922

**Dockets: T-250-23
T-256-23**

Citation: 2025 FC 1551

Ottawa, Ontario, September 22, 2025

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

CRYSTAL ARSENAULT

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Crystal Arsenault [Applicant], seeks judicial review of two decisions by the Canada Revenue Agency [CRA] finding on second review that she was not eligible to receive the Canada Emergency Response Benefit [CERB] and Canada Recovery Caregiving Benefit [CRCB] because she did not earn at least \$5,000 of eligible income in the relevant periods [Income Threshold] and did not stop working for reasons related to COVID-19 [collectively, Decisions]. I am mindful that the Applicant is self-represented and has experienced

challenging personal circumstances. However, I cannot find that there is a legal basis to overturn the Decisions.

[2] On judicial review, the Applicant submitted that: a) the eligibility guidelines for COVID-19-related benefits changed repeatedly; b) the caregiver benefits of over \$7,000 that she received were not typical job loss employment insurance benefits and she was taxed on these benefits; and, c) the CRA agent erred in not considering the income earned from these caregiver benefits to calculate and conclude that she met the Income Threshold. Finally, the Applicant states that she was not treated in a procedurally fair manner by the CRA agent in the second review, requiring her to call Service Canada herself about the nature of the caregiver benefits and to provide other submissions to support her eligibility for the CRCB and CERB.

[3] The role of the CRA agent on second review is to determine whether an applicant's eligibility to the benefits that they applied for is adequately supported by the evidence before the CRA. The role of the Court on judicial review of the agent's decision is not to undertake a new assessment to determine the applicant's eligibility, but rather, to assess 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 (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]). A reasonable decision in a given case always depends on the relevant factual and legal constraints affecting the decision under review (*Vavilov* at para 90).

[4] On issues of procedural fairness, the Court must consider whether the Applicant knew the case that she had to meet in the second review, and whether she was able to present her case fairly and fully (*Vavilov* at para 127, citing *Baker v Canada (Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at para 28).

[5] The legal framework that applied to the Decisions comes from two statutes. The *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [*CRB Act*], describes, among other things, the eligibility requirements to receive the CRCB. The *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [*CERB Act*], similarly sets out eligibility requirements to receive the CERB. The *CRB Act* and the *CERB Act* [collectively, *Acts*] apply to the benefits that the Applicant received.

[6] The common issue in both Decisions is whether the CRA's conclusion that the Applicant was not eligible for the CRCB or the CERB was reasonable. The common grounds and reasoning for both Decisions are based on the conclusion that the caregiver benefits that the Applicant received were not eligible to be considered in the \$5,000 Income Threshold calculations, and that she did not stop working or reduce her hours of work because her grandfather required care that he was unable to obtain in the context of the pandemic.

[7] The caregiver benefits that the Applicant received are described as "Compassionate Care Benefits" at subsection 23.1(2) of the *Employment Insurance Act*, SC 1996, c 23 [*EI Act*]. However, the *CERB Act* and the *CRB Act* clearly state that only employment insurance income received as maternity and parental benefits (under subsections 22(1), 23(1), 152.04(1) and

152.05(1) of the *EI Act*) qualifies as eligible income to calculate the \$5,000 Income Threshold (s 17 of the *CRCB Act* and s 2 of the *CERB Act*, under the definition of “worker”).

[8] It is clear from the language in the *Acts* that the caregiver benefits the Applicant received are not part of the listed *EI Act* benefits that could be used to calculate income to determine eligibility. Furthermore, while the Applicant states she could not work during COVID-19, the record was also clear that she stopped working in 2019 to care for her grandfather. Therefore, the evidence supported the CRA agent’s conclusion that the Applicant did not stop working or have her hours reduced for reasons related to COVID-19.

[9] Based on the language in both *Acts* and the evidence that the CRA agent had before them, it was not unreasonable for them to find that the Applicant did not meet the eligibility criteria for either the *CRCB* or the *CERB*. The CRA agent acknowledged and engaged with the evidence submitted by the Applicant and considered the appropriate statutory framework. The qualifying criteria for the *CRCB* and *CERB* are statutory and non-discretionary. The CRA agent therefore had no choice but to apply the statutory criteria in determining that she was not eligible for the *CRCB* and *CERB* (*Flock v Canada (Attorney General)*, 2022 FC 305 at paras 3, 23). Their reasons denying the Applicant’s eligibility are transparent and intelligible, and their conclusion is justified in law. As such, I do not find that the Decisions are unreasonable.

[10] The Applicant sought to submit new evidence in the Applicant’s Record through a Request to Admit form. As I explained to the Applicant, the general rule is that only the record that was before the decision-maker ought to be considered on judicial review, unless certain

exceptions are met (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 20). The Applicant confirmed that these new documents were not before the decision-maker, as she could not locate them during her interactions with the CRA agent on second review. As such, the new documents could not be admitted as they did not meet the exceptions described in the case law.

[11] Finally, I cannot agree with the Applicant that there was a breach of procedural fairness. The record before the Court demonstrates that the CRA agent informed the Applicant of the eligibility requirements in both *Acts* and clarified why the caregiver benefits she received could not be used to calculate the \$5,000 Income Threshold required by these *Acts*. Specifically, the CRA agent also explained to her that only maternity and parental employment insurance benefits could fulfill the requirements under the *Acts*. They also gave her the opportunity to provide additional information or documents. Indeed, the Applicant provided written submissions in support of her position and spoke to the CRA agent, explaining her position that her benefits should have been sufficient to meet the Income Threshold. As the Applicant had an opportunity to be heard and knew the case she had to meet, there has been no breach of procedural fairness.

[12] Although this is not the outcome sought by the Applicant, I find that the Decisions are reasonable and there is no breach of procedural fairness. Accordingly, the application for judicial review must be dismissed. The Respondent is not seeking costs in this matter. Accordingly, there will be no order as to costs.

JUDGMENT in T-250-23 and T-256-23

THIS COURT ORDERS that:

1. The application for judicial review is dismissed, without costs.
2. The style of cause shall be corrected to name the proper Respondent as the “Attorney General of Canada”.

"Phuong T.V. Ngo"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: T-250-23 AND T-256-23

STYLE OF CAUSE: CRYSTAL ARSENAULT v ATTORNEY GENERAL

PLACE OF HEARING: TORONTO (ONTARIO)

DATE OF HEARING: SEPTEMBER 17, 2025

JUDGMENT AND REASONS: NGO J.

DATED: SEPTEMBER 22, 2025

APPEARANCES:

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FOR THE APPLICANT
(ON HER OWN BEHALF)

Devlin Williams

FOR THE RESPONDENT

SOLICITOR OF RECORD:

Attorney General of Canada
Toronto (Ontario)

FOR THE RESPONDENT