

Federal Court



Cour fédérale

Date: 20251112

Docket: T- 2412-24

Citation: 2025 FC 1814

Ottawa, Ontario, November 12, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

SUPRIYA DHIMAN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

AMENDED REASONS AND JUDGMENT

I. INTRODUCTION

[1] Ms. Supriya Dhiman (the “Applicant”) seeks judicial review of the decision made by the Canada Revenue Agency (the “CRA”) on August 19, 2024, finding that she is ineligible for the Canada Recovery Benefit (the “CRB”).

[2] The Applicant has named the CRA as the respondent. Pursuant to Rule 303 (2) of the *Federal Courts Rules*, SOR/98-106 (the “Rules”), the Attorney General of Canada is the respondent (the “Respondent”) in this matter. The style of cause will be amended with immediate effect, to show the Attorney General of Canada as the Respondent.

[3] In support of this application, the Applicant filed her affidavit, affirmed on October 30, 2024. Her affidavit included exhibits, that is the decision under review, a notice of assessment for tax year 2020 and bank statements from March 2020 until November 2021.

[4] The Respondent filed the affidavit of Mr. John Malakoff, a Benefits Validation Officer (the “Officer”) with the CRA.

[5] In his affidavit, affirmed on November 30, 2024, that Officer described the process he followed in redetermining the Applicant’s eligibility. He attached twelve exhibits to his affidavit, including notepad entries maintained by employees of the CRA, submissions from the Applicant dated October 12, 2022 and November 17, 2022 in response to the First review, the decision dated November 21, 2022 upon the First Review, further submissions upon the first Second review, and the decision made on February 9, 2023 upon the first Second Review.

[6] The Applicant applied for the CRB in 2020 and received benefits from October 11, 2020, until August 14, 2021. She claimed income from self-employment as a child-carer and from commissions earned from selling Amway products.

[7] The Applicant was paid cash for the child-care services and used that money for expenses. Commissions from Amway were paid into a bank account. The Applicant did not show that her income for child-caring services was deposited in a bank account.

[8] By letter dated July 25, 2022, the Applicant was advised that her eligibility for the benefits was under review. Between October and November 2022, she provided submissions and documents supporting her eligibility, that is documents from her bank and from Cintac Business Tax Accounting.

[9] The Applicant filed her first submissions about her eligibility on October 12, 2022, consisting of two self-statements saying that she had received the amount of \$6000.00 from a named individual for childcare services in 2020 and the amount of \$500.00 from the same person for childcare services in 2021.

[10] A letter dated November 16, 2022, from Cintac Business Tax Accounting and Consulting provided details of the Applicant's cash earnings in 2020 and 2021, and advised that none of the funds were deposited in a bank account. The writer also advised that the Applicant sustained income reduction of more than 50% due to Covid-19.

[11] After the reviews that were conducted in 2022 and 2023, the CRA determined that the Applicant was not eligible for the benefits because she had not shown receipt of qualifying income for the relevant time periods. She successfully pursued an application for judicial review in cause number T-525-24, the initial decision was set aside, and the matter was remitted to the

CRA for redetermination. The Court referred to a breach of procedural fairness in connection but did not identify what it was.

[12] The matter was redetermined by the Officer on the basis of the evidence that was previously provided by the Applicant. The Certified Tribunal Record (the “CTR”) includes notes taken by the reviewing CRA officers, about phone calls to the Applicant during the first assessment of her eligibility and in the course of the reconsideration process.

[13] The Officer concluded that the Applicant had failed to show eligible earnings of at least \$5000.00 in employment or self-employment income in 2019, 2020 or in the 12 months preceding her application for the benefits.

[14] The Applicant now argues that the decision is unreasonable, that she provided all the necessary information to support her claim, that the CRA accepted her declared income for the purpose of assessing her income tax and now should not dispute it.

[15] The Applicant also submits that there may have been a breach of procedural fairness arising from bias in the decision. She criticized the manner in which the CRA sought information from her, that is by telephone communication rather than by letter setting out what information was required. She also argues that there may have been language challenges.

[16] The Respondent objected to the production of certain documents upon this application for judicial review, that is a Notice of Assessment for 2020 and three bank statements for a joint

account maintained with her husband. He submits that the application for judicial review should proceed only upon the basis of the evidence that was before the Officer.

[17] The Respondent contends that the decision is reasonable, on the basis of the evidence before the Officer. He argues, too, that there was no breach of procedural fairness in the decision-making process.

[18] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 SCR 653, the merits of the decision are reviewable on the standard of reasonableness.

[19] In considering reasonableness, the Court is to ask if the decision under review “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 that decision”; see *Vavilov*, *supra* at paragraph 99

[20] Any issue of procedural fairness is reviewable on the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v Khosa*, [2009] 1 S.C.R. 339.

[21] Upon reviewing the affidavits filed and the CTR, I am not persuaded that the Officer made an unreasonable decision.

[22] The statutory criteria for the benefits are set out in the *Canada Recovery Benefits Act*, S.C. 2020.c. 12, s. 2. This legislation allowed for a benefit within the period beginning on

September 27, 2020 and ending on October 23, 2021, when certain conditions were met.

Paragraph 3(1)(d) is relevant and provides as follows:

3 (1) A person is eligible for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021 if

(d) in the case of an application made under section 4 in respect of a two-week period beginning in 2020, they had, for 2019 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000 from the following sources:

(i) employment,

(ii) self-employment,

(iii) benefits paid to the person under any of subsections 22(1), 23(1), 152.04(1) and 152.05(1) of the Employment Insurance Act,

(iv) allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption, and

(v) any other source of income that is prescribed by regulation;

3 (1) Est admissible à la prestation canadienne de relance économique, à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021, la personne qui remplit les conditions suivantes:

d) dans le cas d'une demande présentée en vertu de l'article 4 à l'égard d'une période de deux semaines qui débute en 2020, ses revenus provenant des sources ciaprès, pour l'année 2019 ou au cours des douze mois précédant la date à laquelle elle présente sa demande, s'élevaient à au moins cinq mille dollars:

(i) un emploi,

(ii) un travail qu'elle exécute pour son compte,

(iii) des prestations qui lui sont payées au titre de l'un des paragraphes 22(1), 23(1), 152.04(1) et 152.05(1) de la Loi sur l'assurance-emploi,

(iv) des allocations, prestations ou autres sommes qui lui sont payées, en vertu d'un régime provincial, en cas de grossesse ou de soins à donner par elle à son ou ses nouveaux ou à un ou plusieurs enfants placés chez elle en vue de leur adoption,

(v) une autre source de revenu prévue par règlement;

[23] The affidavit of the Officer details the process followed on the redetermination of the Applicant's claim for benefits, including the note-taking by the first CRA officer who reviewed the claim.

[24] The CTR records what was done by both the first officer and the Officer who made the decision now under review, and it contains the information that was considered.

[25] The assessment of eligibility is a fact-driven exercise, based upon the information available to the Officer.

[26] The Officer noted that the Applicant did not issue invoices for her child-care services, that there was no evidence of a contract with the parents of the child, and that there was “mixed” evidence as to what she did with the cash payments that she received.

[27] The Officer also observed that there was evidence that the Applicant’s earnings were occasionally deposited into a joint bank account that she maintained with her husband, and that it was not possible to separate her earnings from other funds.

[28] The Applicant pleads that because the CRA accepted her statement of income declared on her 2020 income tax return and issued a Notice of Assessment, the Notice of Assessment should be accepted as evidence that she did indeed meet the statutory criteria of the required income.

[29] The Respondent refers to and relies upon the decisions in *Sjogren v. Canada (Attorney General)*, 2023 FC 24 and *Aryan v. Canada (Attorney General)*, 2022 FC 139 where the Court found that Notices of Assessment are not conclusive evidence of earning, for the purposes of establishing eligibility.

[30] The Respondent complains that the Applicant included documents upon this application for judicial review that were not before the officer, that is a notice of assessment for 2020 for the Applicant and three statements for the Royal Bank of Canada bank in the names of Mr. Keshay Dhiman and the Applicant.

[31] According to the decision in *Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright)*, 428 N.R. 297 (FCA) there are three exceptions to the general rule that only the evidence before the decision-maker will be considered upon an application for judicial review: that is to provide background information, to address an issue of procedural fairness, or to show a total lack of evidence that would support the decision.

[32] I agree with the Respondent that none of these circumstances arise here. These documents will not be considered in assessing the reasonableness of the officer's decision under review here.

[33] I turn now to the Applicant's arguments about breach of procedural fairness.

[34] I agree with the submissions of the Respondent that the content of procedural fairness upon an eligibility decision relative to the CRB benefits is at the low end. I refer to the decision in *Moncada v Canada (Attorney General)*, 2024 FC 117.

[35] As always, the critical factor is that an applicant knows the "case to be met".

[36] The Applicant “suggests” that there may have been bias in the decision-making process upon the redetermination of her claim, pursuant to the decision in T-525-24.

[37] The test for bias was set out by the Supreme Court of Canada in *Committee for Justice and Liberty et al. v. National Energy Board et al.*, [1978] 1 S.C.R 369.

[38] Upon a review of the CTR and the materials submitted upon this application for judicial review, including the CTR, I see no foundation to support an allegation of bias, or any other breach of procedural fairness.

[39] In my opinion, the Applicant has failed to establish any breach of procedural fairness in the process by which the decision was made in her case.

[40] Considering the evidence, including the notes kept by both the first officer and the Officer, the determination of ineligibility meets the applicable legal test of reasonableness – it is justified, transparent and intelligible.

[41] The Applicant has failed to show a breach of the content of procedural fairness to which she was entitled.

[42] In the result, the application for judicial review will be dismissed. The Respondent does not seek costs and none will be awarded.

JUDGMENT IN T-2412-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. The style of cause is amended with immediate effect to show the Attorney General of Canada as the Respondent.
3. There is no order as to costs.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2412-24

STYLE OF CAUSE: SUPRIYA DHIMAN v. ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 3, 2025

REASONS AND JUDGMENT: HENEGHAN J.

DATED: NOVEMBER 12, 2025

APPEARANCES:

Supriya Dhiman	ON HER OWN BEHALF
Elliot McPhail	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, ON	FOR THE RESPONDENT
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