

Federal Court



Cour fédérale

Date: 20251120

Docket: T-1191-25

Citation: 2025 FC 1849

Ottawa, Ontario, November 20, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

MANOCHER ZIBANIJAD RAD

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The self-represented Applicant, Manocher Zibanijad Rad, seeks judicial review of the Canada Revenue Agency's (CRA) decision that he was not eligible for the Canada Recovery Benefit (CRB) he received between September 27, 2020 and October 9, 2021.

[2] I am sympathetic to Mr. Zibanijad Rad's circumstances, and I can appreciate his frustration with his interactions with CRA, but unfortunately this Court cannot provide a remedy because his application was filed too late. Additionally, even if it had been filed in time, based upon my review of the CRA decision, Mr. Zibanijad Rad's financial information, and the statutory provisions, the CRA decision is reasonable.

[3] This judicial review is therefore dismissed.

I. Background

[4] Mr. Zibanijad Rad received CRB between September 27, 2020 and October 9, 2021.

[5] CRA completed its first review of Mr. Zibanijad Rad's CRB eligibility and sent him a letter, dated June 7, 2023 (First Decision), stating that he was not eligible because he did not have earnings of at least \$5,000 (before taxes) in 2019, 2020, or in the 12 months before applying for CRB. The letter informed Mr. Zibanijad Rad that he had 30 days to request a second review, which he did.

[6] CRA completed the second review and sent Mr. Zibanijad Rad a letter, dated January 18, 2024(Second Decision). The second review found him ineligible for the same reason as the First Decision and the letter also stated that Mr. Zibanijad Rad had 30 days from the date of the letter to seek judicial review at the Federal Court.

[7] On April 3, 2025, CRA sent Mr. Zibanijad Rad a letter in response to his inquiries. This letter stated that Mr. Zibanijad Rad was found ineligible for CRB in the Second Decision, that he had 30 days from the date of the second letter to pursue judicial review, and that judicial review would be his final recourse for challenging CRA's decision.

[8] Mr. Zibanijad Rad filed this judicial review application on April 14, 2025.

II. Preliminary issues

[9] I will address two preliminary issues.

[10] First, although it is a decision made by the CRA that is under review, the proper legal Respondent in judicial reviews of CRB eligibility is the "Attorney General of Canada" (*Sharma v Canada (Attorney General)*, 2025 CanLII 94655 (FC) at paras 11-12). I will hereby amend the style of cause to name the Attorney General of Canada as the Respondent, with immediate effect.

[11] Second, the Respondent objects to the Court considering some materials attached to the Applicant's Affidavit, on the grounds that they were not before the decision maker when the January 18, 2024 Second Decision was made. The Respondent objects to the following documents:

Exhibit A: a February 2025 statement of tax adjustment filed to CRA;

Exhibit B: a BMO bank statement showing repayments;

Exhibit C: a BMO bank statement showing amounts received; and

Exhibit D: Hospital records from 2018-2024.

[12] Assuming for the moment that it is the January 18, 2024 decision that is truly under review, then I agree with the Respondent that as a general rule, evidence that was not before the decision maker is not admissible on judicial review, since the Court's role is to review the underlying decision (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19 [*Access Copyright*]). While *Access Copyright* provides exceptions to this general rule, the Applicant's materials, listed above, would not meet any of these exceptions with respect to the decision of January 18, 2024.

[13] However, the Applicant's materials that either post-date the January 18, 2024 Second Decision, or were only provided after the January decision, may be considered on the issue of whether Mr. Zibanijad Rad should be granted an extension of time for his application, which is the issue I will now consider.

III. Issues

[14] The determinative issue on this judicial review is if Mr. Zibanijad Rad should be granted an extension of time to challenge the decision that he did not qualify for CRB entitlement.

IV. Analysis

[15] In his Notice of Application, Mr. Zibanijad Rad states that he is seeking judicial review of the "decision" of April 3, 2025 from CRA. However, in this letter CRA states:

We are following-up on your second review request for eligibility to the Canada Recovery Benefit (CRB).

The CRA reviewed your CRB eligibility and sent you a letter with our decision on January 18, 2024.

The letter explained why you were not eligible for the CRB and advised that if you disagree with the CRA's decision, you may apply to the Federal Court for a judicial review within 30 days of the date of the letter. The judicial review is the final recourse available for those who disagree with the CRA's decision, therefore we will not complete another review of your eligibility...

[16] In the above letter (April 3, 2025), CRA explains that the decision on Mr. Zibanijad Rad's CRB entitlement was made and communicated to him in the January 18, 2024 letter.

[17] The January 18, 2024 letter reads as follows:

Re: Second review for your Canada Recovery Benefit application

We are writing to advise you of our decision regarding your request dated June 9, 2023, for a second review of your Canada Recovery Benefit (CRB) application.

We have completed your request and have carefully considered all the information to support your CRB eligibility.

Based on our review, you are not eligible.

You did not meet the following criteria:

- You did not earn at least \$5,000 (before taxes) of employment and/or net self-employment income in 2019, 2020, or in the 12 months before the date of your application.

...

If you disagree with the result of the second review, you may apply to the Federal Court for a judicial review within 30 days of the date of this letter. For more information on judicial reviews, go to canada.ca/cra-judicial-review

[18] For the purposes of this judicial review, I agree that the CRB decision is the January 18, 2024 letter and not the April 3, 2025 letter. Because Mr. Zibanijad Rad did not file this application within 30 days of the January decision, he will need an extension of time in order for the Court to consider his application.

[19] In considering if an extension of time should be granted, the Court must consider the following factors from *Canada (Attorney General) v Hennelly*, 1999 CanLII 8190 (FCA) [Hennelly] at paragraph 3:

1. a continuing intention to pursue his or her application;
2. that the application has some merit;
3. that no prejudice to the respondent arises from the delay;
- and
4. that a reasonable explanation for the delay exists.

[20] The factors in *Hennelly* are not determinative, and not all four questions in *Hennelly* need to be resolved in the Applicant's favor to grant an extension of time (*Canada (Attorney General) v Larkman*, 2012 FCA 204 at para 62). However, they are helpful to determine whether the granting of an extension is in the interests of justice, because the overriding consideration, or the real test, is ultimately that justice be done between the parties (*Alberta v Canada*, 2018 FCA 83 at para 45).

[21] Mr. Zibanijad Rad's application was filed over a year after the CRA decision. He says he was not aware of the time limit, says he had ongoing communications with CRA, and any delay in responding to CRA requests was because he did not trust that the phone calls he received were legitimate, and he was in the process of changing accountants. He also explains that he had

medical issues, and he provided hospital records. I note the hospital records all predate the delay period.

[22] As harsh as it may seem, these explanations do not demonstrate that Mr. Zibanijad Rad had the intention to seek review of the January 2024 letter. I accept that communications from CRA can sometimes lack clarity, but that is not the case with the January 2024 letter.

[23] Mr. Zibanijad Rad also has not provided any evidence of a reasonable explanation for the delay.

A. *Potential merit*

[24] Another factor for consideration is if the proposed application has potential merit.

[25] The CRA case notes indicate that Mr. Zibanijad Rad was ineligible because there was only evidence of his gross self-employment income, and not his net self-employment income. CRA first expressed this concern to Mr. Zibanijad Rad on April 12, 2022, when a CRA agent asked him to confirm his T1 business income and he refused without first speaking to his accountant. After that, CRA tried to contact Mr. Zibanijad Rad several times, and left several voicemails, to confirm his net self-employment income, however Mr. Zibanijad Rad did not respond.

[26] After the First Decision and before issuing the Second Decision, CRA made three calls to Mr. Zibanijad Rad, although the final two calls occurred when Mr. Zibanijad Rad was in the

hospital for surgery. However, CRA left voicemails, which Mr. Zibanijad Rad did not respond to. The record shows extensive attempts by CRA to contact Mr. Zibanijad Rad and his repeated failure to reply.

[27] The information in the Certified Tribunal Record notes the following on Mr. Zibanijad Rad's tax return information for the relevant years:

2019

Line 13499 Gross business income (Reported) = 20,103.

Line 13500 Net business income (Processed) = 3,776.

2020

Line 11900 EI and other benefits = 14,000.

Line 13499 Gross business income (Reported) = 8,292.

Line 13500 Net business income (Processed) = -657.

2021

Line 13499 Gross business income (Reported) = 12,754.

Line 13500 Net business income (Processed) = 3,302.

[28] The evidence in the record demonstrates that Mr. Zibanijad Rad simply did not qualify because he did not meet the \$5,000 net business income threshold.

[29] Accordingly, I am not satisfied that his application has merit.

B. *Prejudice*

[30] There is a public interest in the expectation that parties to a judicial review will move the matter forth expeditiously and that time limits will be complied with (*Collins v Canada (Attorney General)*, 2010 FC 949 at para 6). As such, granting a time extension, without a reasonable explanation, would prejudice the Respondent.

V. Conclusion

[31] Mr. Zibanijad Rad cannot satisfy any of the *Hennelly* factors, so I do not consider it in the interests of justice to grant a time extension. I am therefore dismissing this judicial review. The Respondent did not seek costs and none are awarded.

JUDGMENT IN T-1191-25

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to name the Attorney General of Canada as the Respondent, with immediate effect.
2. The judicial review is dismissed.
3. No costs are awarded.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1191-25

STYLE OF CAUSE: RAD V CANADA REVENUE AGENCY
EMERGENCY BENEFIT VALIDATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: NOVEMBER 17, 2025

JUDGMENT AND REASONS: MCDONALD J.

DATED: NOVEMBER 20, 2025

APPEARANCES:

Manocher Zibanijad Rad (ON HIS OWN BEHALF)

Katherine Matthews FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A FOR THE APPLICANT

Attorney General of Canada
Vancouver, British Columbia FOR THE RESPONDENT