

Federal Court



Cour fédérale

**Date: 20260128**

**Docket: T-1714-24**

**Citation: 2026 FC 132**

**Ottawa, Ontario, January 28, 2026**

**PRESENT: The Honourable Mr. Justice Manson**

**BETWEEN:**

**JOSEPH RUSSELL ROBSON**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. Introduction**

[1] This is an application for judicial review of three Canada Revenue Agency (“CRA”) second-review decisions that found the Applicant ineligible for the Canada Emergency Response Benefit (“CERB”), and the Canada Recovery Benefit (“CRB”).

[2] For the reasons that follow, the application is dismissed.

II. Background

[3] The Applicant, who is self-represented, applied for and received payments under CERB for periods between March 15, 2020, and September 26, 2020, and under CRB for periods between September 27, 2020, and October 23, 2021.

[4] The Applicant describes himself as a low-income musician who supports a large family. He says a back injury in 2019 ended his work as a millwright and that he relied on self-employment income from performances and merchandise sales. He says he earned at least \$5,400 in 2019 from those activities.

[5] The CRA took steps to verify the Applicant's eligibility, requested supporting documents, and conducted reviews. On October 4, 2022, the CRA requested documents to support the Applicant's benefits eligibility. The Applicant provided submissions on May 15, 2023, including:

- (a) a letter from Valerie Seedhouse stating that she paid the Applicant:
  - a. \$1000 on August 9, 2019,
  - b. \$1000 on August 30, 2019,
  - c. \$1500 on January 2, 2020, and
  - d. \$1000 on February 20, 2020;
- (b) screenshots of three Interac e-transfers from Valerie Seedhouse:
  - a. \$1000 on August 9, 2019,
  - b. \$1500 on January 2, 2020, and

- c. \$1000 on February 20, 2020;
- (c) a bank statement from February 28, 2019, to March 29, 2019, showing a \$900 deposit on March 5, 2019, with a note from the Applicant that it was funds for merchandise and tips from live music performances.
- [6] By letters dated July 4, 2023, the CRA issued first-review decisions finding the Applicant ineligible for both CERB and CRB.
- [7] On July 16, 2023, the Applicant provided a resubmission of the earlier documents, and further materials to the CRA, including:
- (a) a letter from the Applicant to the CRA asking for a second review of his qualification for CERB and setting out that the \$900 cash deposit of March 5, 2019, was payment “for merchandise sales of t shirts and CDs (\$400.00) & cash payment for live performance from shows at The Painted Lady (\$300.00) & Wintersong Festival (\$200.00)”;
  - (b) a bank statement from July 31, 2019, to August 30, 2019, showing a \$1000 deposit on August 9, and a \$1000 deposit on August 30, 2019;
  - (c) a bank statement from December 31, 2019, to January 31, 2020, showing a \$1500 deposit on January 2, 2020;
  - (d) a bank statement from January 31, 2020, to February 28, 2020, showing a \$1000 deposit on February 20, 2020;
  - (e) a screenshot of a social media post advertising the Applicant’s Wintersong Music Festival musical performance;
  - (f) a screenshot of a website selling a t-shirt with the Applicant’s name;

- (g) a screenshot of a picture of a woman wearing a shirt with the Applicant's name that was advertised on the website;
- (h) a photograph of a t-shirt; and
- (i) a screenshot of a car stereo playing a song by the Applicant and a CD case with the same album name shown on the stereo.

[8] The CRA treated the July 16, 2023 letter from the Applicant as a request for a second review for both benefits. The CRA assigned a different officer (the "Second Officer") to conduct the second review. The Second Officer reviewed the Applicant's submissions, prior CRA system entries, and the Applicant's reported income and deductions for the 2019 to 2021 taxation years.

[9] The Second Officer held two phone conversations with the Applicant and requested that the Applicant submit additional documents by May 6, 2024, that would show income in 2019, 2020, or in the 12 months prior to the application period for CERB or CRB. The Applicant did not submit additional documents by that deadline.

[10] The Respondent notes a typographical error in an affidavit describing CRB periods.

Nothing turns on that point in this application.

### III. The Decisions

[11] By letters dated June 5, 2024, the CRA advised the Applicant of the results of the second reviews, that he remained ineligible for:

- (a) CERB, because he had not earned at least \$5000 of employment or self-employment income in 2019 or in the 12 months preceding his first CERB application; and
- (b) CRB, because he had not earned at least \$5000 of such income in 2019, 2020, or in the 12 months preceding his first CRB application.

[12] The record contains the Second Officer's contemporaneous notes, which form part of their reasons (*Crook v Canada (Attorney General)*, 2022 FC 1670 [*Crook*] at para 14; *Aryan v Canada (Attorney General)*, 2022 FC 139 [*Aryan*] at para 2), identifying the materials that the Second Officer reviewed and explaining why the Applicant's materials did not prove eligibility for CERB and CRB.

#### IV. Issues

[13] There are three issues in this proceeding:

1. Whether the Court should grant leave under rule 302 of the *Federal Courts Rules*, SOR/98-106, to permit the Applicant to challenge both the CERB and CRB second-review decisions in this application.
2. Whether the CERB and CRB second-review decisions were reasonable.
3. Whether the CRA breached the duty of procedural fairness owed to the Applicant.

#### V. Standard of Review

[14] The standard of review with respect to the Second Officer's substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65

[*Vavilov*] at para 25). The standard of review with respect to the Applicant's procedural rights is correctness or a standard with the same import (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 34-35 and 54-55, citing *Mission Institution v Khela*, 2014 SCC 24 at para 79).

## VI. Analysis

### A. *Multiple Decisions in One Application*

[15] The Court considers both the CERB and CRB second-review decisions in this application.

### B. *Statutory Framework*

[16] Sections 2 and 6 of the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [*CERB Act*], set out the CERB eligibility criteria, including that an applicant must have had at least \$5000 of prescribed income in 2019 or in the 12 months before the application. The prescribed categories include employment and self-employment income.

[17] Section 3 of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [*CRB Act*], sets out the CRB eligibility criteria, including that an applicant must have earned at least \$5000 of prescribed income in the specified reference periods, with any self-employment income calculated on a net basis.

[18] Section 10 of the *CERB Act* authorizes the Minister to require information to verify an applicant's CERB eligibility, and subsection 5(3) of the *CERB Act* states that a CERB applicant is responsible for providing any information the Minister requires of them in respect of their CERB application. Section 6 of the *CRB Act* authorizes the Minister to require information to verify an applicant's CRB eligibility.

[19] The *CERB Act* and the *CRB Act* do not prescribe internal CRA review procedures. The record shows that the CRA adopted a two-step administrative process: an initial eligibility review followed by a second review by a different officer if requested by an applicant within 30 days.

C. *Reasonableness of the Second-Review Decisions*

[20] The Applicant argues that the letters communicating the CERB and CRB second-review decisions are conclusory, ignore his documentary proof of income, contradict prior CRA assurances he received, and fail to account for the realities of his self-employment situation.

[21] The Respondent submits that the Second Officer considered the Applicant's submissions, including bank statements and e-transfer screenshots, asked the Applicant for further materials supporting his income, and reasonably found that the materials the Applicant supplied did not establish the required eligible income within the relevant periods.

[22] While the Applicant argues that the CRA mishandled his document submissions, the Applicant resubmitted the documents before the second review and the Second Officer

considered the Applicant's resubmitted original documents and further submitted documents, including:

- (a) a letter from Valerie Seedhouse asserting payments to the Applicant totalling \$4500 between August 2019 and February 2020;
- (b) three e-transfer screenshots corresponding to \$3500 of Valerie Seedhouse's stated \$4500 in payments;
- (c) bank statements showing a \$900 deposit on March 5, 2019, and \$4500 of deposits corresponding to Valerie Seedhouse's stated \$4500 in payments; and
- (d) screenshots related to a performance and merchandise.

[23] The Second Officer also considered CRA system information regarding the Applicant's reported income and deductions, and held two telephone discussions with the Applicant.

[24] While the Applicant argues that he had not kept invoices that correspond to the payments he received for music performances or merchandise sales and therefore could not provide them to the CRA, people who carry on business and are required to pay taxes are required to keep records that enable taxes or other amounts that should have been deducted, withheld or collected to be determined (*Income Tax Act*, RSC 1985, c 1 (5th Supp), s 230(1)).

[25] The Second Officer assessed the Applicant's materials to determine whether bank deposits and e-transfers represented business income or reflected loans, gifts, transfers between accounts, or other non-income receipts. The Second Officer reasonably sought corroboration that connects amounts received to income earned from self-employment activities, and for CRB, to

net self-employment income after expenses. The Second Officer's notes, which form part of their reasons (*Crook* at para 14; *Aryan* at para 2), set out that:

- (a) the Applicant submitted bank statements showing that the Applicant deposited \$900 on March 5, 2019, and another \$4500 from August 2019 to February 20, 2020;
- (b) the Applicant submitted an employment verification letter stating that he was paid \$4500 from August 2019 to February 2020;
- (c) the Applicant submitted e-transfer screenshots totalling \$3500 from self-employment in the 12-month period prior to the CERB and CRB application period; and
- (d) the \$900 the Applicant earned on March 5, 2019, did not fall within the 12-month period prior to either the CERB application period (2020-04-17) or the CRB application period (2021-01-18) and it cannot be used to calculate the \$5000 income to qualify for CERB or CRB.

[26] The Applicant relies heavily on his statement that he earned at least \$5400 in 2019. The Second Officer was not required to accept that assertion without adequate supporting materials. The burden is on the person making a claim for CRB to establish that they meet the qualifying criteria of the CRB Act, on the balance of probabilities (*Walker v Canada (Attorney General)*, 2022 FC 381 at para 55).

[27] The materials the Applicant submitted to the CRA show \$4500 in earnings from Valerie Seedhouse and a \$900 deposit on March 5, 2019, for a total of \$5400. That total would exceed the \$5000 qualifying threshold only if all amounts fell within the same qualifying period. However, the earnings from Valerie Seedhouse were split between \$2000 earned in 2019 and

\$2500 earned in 2020. The Applicant's \$900 deposit on March 5, 2019, does not bring the total he earned in 2019 above \$5000, and as set out by the Second Officer in their notes, the \$900 deposit fell outside the relevant 12-month periods preceding the Applicant's CERB and CRB applications and could not be counted toward the required \$5000 for those 12-month periods.

[28] The second-review decision letters are brief. However, the reasons include the Second Officer's notes and are assessed in light of the record and the context, and the Court reads the reasons in a manner that is sensitive to the administrative setting to understand why the Second Officer reached the outcome and whether the decisions are responsive to the key constraints (*Vavilov* at paras 91-97, 102-103).

[29] The Applicant asks the Court to prefer his interpretation of the evidence. That invites the Court to reweigh the evidence in the record. Absent a decision maker's failure to grapple with key evidence or misapprehension of that evidence, that is not the role of the Court in judicial review (*Vavilov* at para 125-126).

[30] While I have some sympathy for the Applicant's confusion given the history of his communications with the CRA, I find that the Applicant has not discharged his burden to show sufficient shortcomings in the Second Officer's reasoning or the outcomes to render either eligibility determinations unreasonable (*Vavilov* at para 100). The Second Officer's reasons are transparent and intelligible, and the second-review decisions are justified in relation to the record and the eligibility requirements set out by the statutes (*Vavilov* at para 99).

D. *Procedural Fairness*

[31] Procedural fairness in these circumstances required notice of the case to meet and a meaningful opportunity for the Applicant to provide information to substantiate his claim that he qualified for CERB and CRB.

[32] The Applicant argues that the CRA misled him, denied receipt of documents, gave contradictory explanations, and failed to give him a meaningful opportunity to respond.

[33] The record shows repeated notice that the CRA was not satisfied that the Applicant met the \$5000 income statutory requirement and repeated opportunities for the Applicant to respond by providing adequate submissions. The CRA requested documents, and the Applicant made additional submissions on July 16, 2023 and April 25, 2024. After those submissions, the Second Officer held two telephone discussions with the Applicant and requested that the Applicant submit additional documents that show income in 2019, 2020, or in the 12 months prior to the application period for CERB or CRB by May 6, 2024, but the Applicant did not submit additional documents by that deadline.

[34] The Applicant also points to prior communications with other CRA agents, including alleged assurances that no repayment of benefits was required. Such communications appear to have confused the Applicant and may be relevant background, but they do not bind the Second Officer to a particular eligibility finding. At most, a clear and unambiguous representation can ground a procedural legitimate expectation. It does not create substantive entitlement contrary to

statute (*Flock v Canada (Attorney General)*, 2022 FC 305 at para 23; *Mount Sinai Hospital Center v Quebec (Minister of Health and Social Services)*, 2001 SCC 41 at paras 35, 47). On this record, the prior communications do not establish an enforceable legitimate expectation of eligibility.

[35] Whatever confusion arose in the Applicant's earlier contacts with other CRA agents, or due to the CRA misplacing the Applicant's original document submission, the second review process provided the Applicant with an opportunity to resubmit his earlier documents and make additional submissions, which were considered by the Second Officer. Any procedural shortcomings that may have preceded the second-review process were remedied by the second reviews.

[36] The Applicant was provided notice of the case to meet and given full and fair opportunities to make submissions to the CRA. I find no breach of procedural fairness.

E. *Costs*

[37] The Respondent does not seek costs and no costs are awarded.

VII. Conclusion

[38] The application for judicial review is dismissed. No costs are awarded.

**JUDGMENT in IMM-1714-24**

**THIS COURT'S JUDGMENT is that:**

1. The application is dismissed.
2. There is no order as to costs.

"Michael D. Manson"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1714-24

**STYLE OF CAUSE:** JOSEPH RUSSELL ROBSON v ATTORNEY GENERAL  
OF CANADA

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 22, 2026

**JUDGMENT AND REASONS:** MANSON J.

**DATED:** JANUARY 28, 2026

**APPEARANCES:**

Joseph Russell Robson

FOR THE APPLICANT  
(ON HIS OWN BEHALF)

Casey Bee

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Attorney General of Canada  
Toronto, Ontario

FOR THE RESPONDENT