

Federal Court



Cour fédérale

Date: 20260129

Docket: T-3240-25

Citation: 2026 FC 139

Ottawa, Ontario, January 29, 2026

PRESENT: The Honourable Madam Justice Tsimberis

BETWEEN:

BRENNAN LALONDE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT

UPON MOTION in writing dated December 18, 2025, on behalf of the Respondent, the Attorney General of Canada [AGC] pursuant to Rules 3 and 369 of the *Federal Courts Rules*, SOR/98-106 and section 18.1(3)(b) of the *Federal Courts Act*, RSC 1985, c F-7, for a judgment to allow the application for judicial review and return the matter to the Canada Revenue Agency for redetermination;

AND UPON READING the AGC's Motion Record filed on December 18, 2025, including its supporting affidavit, enclosed Exhibits A to H, and written representations;

AND UPON READING the Responding Motion Record of the Applicant, Mr. Lalonde, filed on December 29, 2025, including its supporting affidavit and written submissions;

AND UPON CONSIDERING the AGC submits that the correct Respondent should be the Attorney General of Canada pursuant to Rule 303 of the *Federal Courts Rules* and requests that the style of cause in this proceeding be amended accordingly;

AND UPON CONSIDERING that Mr. Lalonde consents to the amendment of the style of cause as submitted by the Respondent;

AND UPON DETERMINING that the style of cause should be amended to name the “Attorney General of Canada” as the Respondent;

AND UPON CONSIDERING that Mr. Lalonde indicated he leaves it to this Court to decide, pursuant to Rule 369(4) of the *Federal Courts Rules*, whether a hearing of the written motion is necessary;

AND UPON DETERMINING that this motion would be disposed of in writing in accordance with Rule 369(4) of the *Federal Courts Rules*;

AND UPON CONSIDERING that the underlying proceeding in this motion concerns a judicial review of a Canada Revenue Agency [CRA] second-review decision dated July 29, 2025, denying Mr. Lalonde the Canada Emergency Response Benefit [CERB] for the CERB periods 1 to 7 of the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8, the Canada Recovery Benefit [CRB] for the CRB periods 1 to 7 of the *Canada Recovery Benefits Act*, SC

2020, c 12, s 2 and the Canada Worker Lockdown Benefit [CWLB] for the CWLB periods 9 to 12 of the *Canada Worker Lockdown Benefit Act*, SC 2021, c 26, s 5;

AND UPON CONSIDERING the AGC's concession that the decision under review failed to address why Mr. Lalonde's reported severance pay of \$42,000 in his 2019 income tax return was not considered an eligible income for the purpose of qualified benefits under CERB, CRB and CWLB;

AND UPON AGREEING with the AGC's concession that the decision under review does not explain why the decision was made and that the reasons provided by the CRA are not adequate. Even considering the pressures and limited resources under which the CRA operates, administrative decision-makers like the CRA must explain their decisions: *Jennings-Clyde (Vivatas, Inc) v Canada (Attorney General)*, 2025 FCA 225 [*Jennings-Clyde*] at paras 4-5, 16-18;

AND UPON CONSIDERING that Mr. Lalonde opposes the AGC's motion on the basis that the unreasonableness of the decision under review is not as simple a matter as is suggested by the AGC and that the error should not simply be brushed away, submitting that this Court should either decide the matter on the merits because of the exceptional circumstances of this case, or, at the very least, provide the guidance and context that is absent from the decision under review;

AND UPON CONSIDERING that Mr. Lalonde submits this Court has the jurisdiction to make the eligibility decision rather than send the matter back for redetermination if doing so would "give rise to an endless merry-go-round of judicial reviews and subsequent

reconsiderations” and that this Court should consider that the decision-maker had a genuine opportunity to weigh in on the issue in question and that the particular outcome is inevitable: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 125, 141-142 [*Vavilov*]; *Fournier v Canada (Attorney General)*, 2024 FC 859 at para 42 [*Fournier*];

AND UPON CONSIDERING that Mr. Lalonde submits that this Court’s decision in *Judt v Canada (Attorney General)*, 2024 FC 2012 [*Judt*] should have been a powerful source of guidance to the CRA from the Court in the determination of his situation;

AND UPON DETERMINING that the present case is not a circumstance where Mr. Lalonde finds himself on an “endless merry-go-round.” There is nothing on the record to suggest continuing and seemingly unending rounds of engagements between the Court and the administrative decision-maker. While Mr. Lalonde’s application seemingly received “two distinct and separate formal reviews of [his] eligibility” according to Mr. Lalonde, this matter is before this Court for the first time on judicial review of the second-review decision and the AGC has conceded that the decision is unreasonable. In so finding, I rely on *Judt* where the applicant’s eligibility had already been litigated twice previously, with the CRA sending the matter back for re-evaluation on two previous occasions, prompting the applicant to discontinue both of her prior judicial reviews and Justice Diner nevertheless remitted the matter back to a different officer to be reassessed in accordance with the Court’s reasons: *Judt* at paras 48-49;

AND UPON ACKNOWLEDGING that the Court has previously held that “It is up to the CRA, not the Court, to make these determinations in light of, of course, these reasons, the evidence before it and the language used by Parliament in subsection 3(2) of the CRBA. I cannot usurp the decision-making authority that Parliament has entrusted to the administrative decision

maker on this issue” and that the Court’s discretionary power to direct a specific outcome following judicial review is a discretion that should be exercised in rare cases and with restraint:

Labrosse v Canada (Attorney General), 2022 FC 1792 at paras 39-40, 42;

AND UPON AGREEING with the AGC’s argument that there is no basis in this case to depart from the usual remedy on judicial reviews: *Fournier* at para 44, and that sending the matter back to the CRA for reconsideration is the only appropriate remedy in this case;

AND UPON DETERMINING that it is not this Court’s role to determine whether severance pay should be deemed as eligible income under those programs: *Vavilov* at paras 140-142. This is not such a case where I should usurp the decision-making authority that Parliament has entrusted to the CRA on the matter of the Mr. Lalonde’s eligibility to the CERB, CRB and CWLB, and where I should exercise the discretion to direct a specific outcome;

AND UPON FINDING that the AGC has consented to granting the underlying judicial review and concedes the decision under review is unreasonable, I find that there is therefore no live issue, and it would be a waste of resources to the parties and the Court to allow this matter to proceed further. This finding is consistent with Rule 3 of the *Federal Courts Rules* that matters be resolved in the most just and expeditious manner possible;

AND UPON FINDING that in this case, the decision under review failed to address why Mr. Lalonde’s severance pay was not considered as eligible income, as it is conceded by the AGC and that similarly, in *Judt*, Justice Diner found that the decision under review “lacked responsive justification in finding that the Settlement fell outside of the eligibility criteria”: *Judt* at para 37; see also *Jennings-Clyde*;

AND UPON DETERMINING that this case is an appropriate one to exercise my discretion to proceed to set aside the second-review decision and refer the matter back for determination under s. 18.1(3)(b) of the *Federal Courts Act*;

AND UPON CONSIDERING that the AGC has not sought any costs while Mr. Lalonde has sought costs on this motion and on the application for judicial review;

AND UPON DETERMINING in the exercise of my discretion under Rule 400(1) of the *Federal Courts Rules* that Mr. Lalonde should not be entitled to the costs of this application for judicial review, given that he was unsuccessful in this motion;

THIS COURT’S JUDGMENT is that:

1. The style of cause be amended to name the “Attorney General of Canada” as the Respondent;
2. The Respondent’s motion is granted.
3. The decision of the Canada Revenue Agency dated July 29, 2025 refusing Mr. Lalonde’s application for benefits under the CERB, CRB or CWLB is hereby quashed and set aside.
4. The matter is remitted back for redetermination by a different officer of the Canada Revenue Agency in accordance with these reasons, including this Court’s decision in *Judt v Canada (Attorney General)*, 2024 FC 2012.
5. No costs are awarded.

"Ekaterina Tsimberis"

Judge