

Federal Court



Cour fédérale

Date: 20260305

Docket: T-1649-24

Citation: 2026 FC 306

Toronto, Ontario, March 5, 2026

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

ERIN GRAY

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant, Erin Gray, seeks judicial review of a decision by the Canada Revenue Agency [CRA] denying her eligibility for the Canada Emergency Response Benefit [CERB].

[2] For the reasons that follow, this application must be dismissed.

II. BACKGROUND

A. *Facts*

[3] The Applicant applied for and received the CERB from March 15, 2020, to September 26, 2020.

[4] The CRA followed up with the Applicant in April 2022 to confirm that she had, in fact, been eligible to receive the CERB. In response, the Applicant submitted the following supporting documents: her application for 3 of the 7 CERB periods for which she received payments, bank statements for the period from July 5 - September 26, 2020, pay stubs, her employment termination letter from February 4, 2021, and her 2020 T4.

[5] On July 13, 2023, the CRA informed the Applicant that she had not been eligible for any of the CERB payments she had received because she had earned more than \$1,000 in employment income during the relevant periods and she hadn't stopped working or had her work hours reduced due to the pandemic.

[6] The Applicant requested a second review of her CERB eligibility in August 2023. She submitted to the CRA that she had been eligible for the CERB because: 1) she was laid off from her job in February, 2021 because of the impact of the pandemic on her employer; 2) her earnings were significantly reduced during the pandemic; 3) her caregiving responsibilities for her disabled child limited her ability to work during the pandemic; 4) renovations on her building limited her ability to work during the pandemic; and 5) the government's communications about the CERB had been inconsistent, ambiguous, and confusing.

[7] The CRA officer who conducted the second review spoke with the Applicant by phone on May 22, 2024. The officer explained that the original reviewer determined that Ms. Gray was ineligible for the CERB because she had earned more than \$1,000 during all the relevant periods and she did not stop working in those periods as a result of the pandemic. The officer further explained that, as part of the second review, they would assess the Applicant's working history and any other documents relevant to the CERB eligibility criteria.

[8] As requested by the reviewing officer, the Applicant submitted her 2020 record of employment [ROE]. This information was requested because the Applicant had previously attested that she earned at least \$5,000 in the CERB comparator periods – as required – but this had not been validated.

[9] The CRA completed their second review on May 24, 2024, and confirmed that the Applicant had not been eligible for the CERB because of her employment income. The reviewing officer's notes indicate that the Applicant's ROE confirmed that she had met the \$5,000 income threshold for the comparator periods.

III. ANALYSIS

A. *Preliminary Issue: Use of AI in Submissions*

[10] The Applicant is not represented by counsel in these proceedings. Her memorandum references five cases, two of which simply do not exist. At the hearing into this matter, the Applicant acknowledged that she used an artificial intelligence [AI] application to assist with drafting her materials. Disclosing the use of AI in materials provided to the Court is required by

the Federal Court Practice Direction entitled *The Use of Artificial Intelligence in Court Proceedings*, dated May 7, 2024.

[11] The Practice Direction exists to protect the integrity of judicial proceedings, safeguard public confidence in the justice system, and uphold the rule of law. While Ms. Gray may have believed that her reliance on AI was innocuous, it was not, as it resulted in her placing hallucinated jurisprudence before this Court.

B. *Preliminary Issue: Style of Cause*

[12] The Respondent submits that the proper respondent in this matter is the Attorney General of Canada, rather than the Canada Revenue Agency. I agree, and the style of cause will be amended accordingly.

C. *Reasonableness of the Decision*

[13] The parties agree that the standard of review on the substance of the CRA's decision is reasonableness: *He v Canada (Attorney General)*, 2022 FC 1503 at para 20; *Aryan v Canada (Attorney General)*, 2022 FC 139 at para 16; *Walker v Canada (Attorney General)*, 2022 FC 381 at para 15.

[14] For the reasons that follow, I believe the CRA's decision was reasonable.

[15] The Applicant alleges that the decision was unreasonable because: 1) it failed to demonstrate how the CRA applied the \$5,000 income threshold to the Applicant's commission-

based earnings, 2) failed to consider important context, namely, the fact that the Applicant lost her job in 2021 due to the pandemic and had caregiving responsibilities for her disabled child, and 3) the CERB eligibility guidelines were ambiguous and unclear.

[16] On the first submission, there seems to be some confusion on the Applicant's part about the CRA's grounds for finding her ineligible, perhaps because she was asked to provide an ROE to verify her income for the qualifying periods. However, the CRA clearly communicated at each review that she was ineligible because she had earned more than \$1,000 in each period that she received the CERB, not because she did not meet the \$5,000 income threshold.

[17] On the second submission, the eligibility criteria are determinative. The statute does not permit the CRA to consider equitable, contextual, or compelling facts—like a job loss that took place *after* the period when the Applicant received the CERB or the Applicant's caregiving responsibilities—unless those factors affect the concrete calculations that determine CERB eligibility: *Canada Emergency Response Benefit Act*, s 6(1)(b)(i); *Income Support Payment (Excluded Nominal Income) Regulations*, SOR/2020-90, s 1. In this case, the record is clear that, even if the Applicant's income was diminished, she earned more than \$1,000 in each CERB period, and so she was not eligible.

[18] Regardless of Ms. Gray's subjective knowledge at the time, the \$1,000 threshold was an eligibility requirement under the law at the time she applied for the CERB, and it continued to apply throughout her receipt of CERB benefits.

[19] The jurisprudence cited by the Applicant (*Vatankhah v Canada (Attorney General)*, 2025 FC 235), is clearly distinguishable. In that case, the CRA failed to explain why a notice of assessment was not being accepted as evidence that the applicant qualified for the CERB. In this case, all the available evidence demonstrates that the Applicant was not eligible.

[20] I am sympathetic to the Applicant's final argument. Given the circumstances of the pandemic and the complex CERB eligibility criteria, it is no surprise that many individuals such as the Applicant may have, in good faith, misunderstood their eligibility. There is no allegation of dishonesty or misrepresentation here, just a question of whether Ms. Gray qualified for the CERB, given its specific and mandatory eligibility requirements.

[21] Neither the CERB Act, nor its regulations grant the CRA flexibility in determining whether a taxpayer was eligible. The legislation also does not have relief provisions related to compelling personal circumstances. This being the case, the CRA's decision was not only reasonable, it was the only outcome available.

D. *Procedural Fairness*

[22] I also find that the CRA's process for determining the Applicant's eligibility for the CERB was procedurally fair.

[23] On issues relating to procedural fairness, the reviewing court must conduct its own analysis of the process followed by the decision-maker to determine whether it was fair: *Bharadwaj v Canada (Citizenship and Immigration)*, 2022 FC 1362 at para 8; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69, at paras 49-56.

[24] There were no procedural deficiencies in this case. The Applicant's file was reviewed twice, she was given an opportunity to submit new evidence on each review, her evidence was duly considered by the reviewing officers, and she received reasons for each decision.

IV. CONCLUSIONS

[25] For these reasons, I believe this judicial review must be dismissed.

[26] The Respondent is seeking costs in this matter, citing Federal Court Rule 400(3)(a), which states that the Court may consider the result of a proceeding when determining whether to order costs to the Crown.

[27] Under the *Federal Courts Rules*, the Court retains full discretionary power over the amount and allocation of costs. In this case, an individual Canadian taxpayer availed herself in good faith of her right to seek judicial review of a decision by a government body. Under the circumstances, I will make no order as to costs.

JUDGMENT in T-1649-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No costs are awarded.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1649-24

STYLE OF CAUSE: ERIN GRAY v. CANADA REVENUE AGENCY

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: FEBRUARY 16, 2026

JUDGMENT AND REASONS: GRANT J.

DATED: MARCH 5, 2026

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