

Federal Court of Appeal



Cour d'appel fédérale

Date: 20240918

Docket: A-268-23

Citation: 2024 FCA 151

[ENGLISH TRANSLATION]

**CORAM: LOCKE J.A.
GOYETTE J.A.
WALKER J.A.**

BETWEEN:

ABASSE ASGARALY

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on September 18, 2024.

Judgment delivered from the bench at Toronto, Ontario, on September 18, 2024.

REASONS FOR JUDGMENT OF THE COURT BY:

GOYETTE J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Toronto, Ontario, on September 18, 2024.)

GOYETTE J.A.

[1] The *Canada Recovery Benefits Act*, S.C. 2020, c. 12, s. 2 (the Act) established the Canada Recovery Benefit to alleviate the economic hardship faced by some Canadian employees and self-employed persons during the COVID-19 pandemic. This benefit provided income support for any two-week period falling between September 27, 2020, and October 23, 2021.

[2] Mr. Asgaraly claimed the benefit for 14 two-week periods from October 11, 2020, to April 24, 2021. His applications were initially accepted. The Canada Revenue Agency (the CRA) subsequently reviewed Mr. Asgaraly's applications three times. In the course of these reviews, the CRA communicated with Mr. Asgaraly. The CRA also reviewed the information submitted by Mr. Asgaraly in support of his applications, as well as information from his tax returns. Based on this information, Mr. Asgaraly earned income in 2019 and 2020, including employment insurance benefits in 2019, but earned no employment income in those years. He had self-employment in 2020, but this work resulted in a loss. The CRA determined that Mr. Asgaraly was not eligible for the benefit because he did not earn at least \$5,000 (before taxes) of employment or net self-employment income for 2019, for 2020 or in the 12 months before the date of his first claim.

[3] Mr. Asgaraly applied to the Federal Court for judicial review of the CRA's decision. The Federal Court dismissed Mr. Asgaraly's application: 2023 FC 1285. Mr. Asgaraly is appealing the decision of the Federal Court.

[4] In an appeal from a judicial review before the Federal Court, this Court "steps into the shoes" of the Federal Court and determines whether it selected the appropriate standard of review and applied it correctly: *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para. 46. In this case, the Federal Court correctly identified reasonableness as the applicable standard of review for the CRA's decision.

[5] Moreover, the Federal Court properly applied the standard of review. It found that the CRA's decision was reasonable given the evidence provided by Mr. Asgaraly and the applicable law. The Act provides that Mr. Asgaraly must show that he earned at least \$5,000 in employment income or net self-employment income for 2019, for 2020 or in the first 12-month period preceding the day on which he made his initial application for benefits: section 6, paragraph 3(1)(d) and subsection 3(2) of the Act. However, Mr. Asgaraly has not shown that he received any such income from employment or self-employment. Also, the Federal Court found it reasonable for the CRA not to have taken into account the other income reported by Mr. Asgaraly, including his 2019 employment insurance benefit, because the Act does not consider it in determining eligibility for the benefit: section 3, paragraphs 3(1)(d), 3(1)(e.1) and 3(1)(g).

[6] Before this Court, Mr. Asgaraly reiterates the arguments he made before the Federal Court: (a) his other income must be taken into account; (b) the process for claiming the benefit lacked precision regarding the net nature of the self-employment income; and (c) the CRA's decision was not correct, intelligent or transparent. Since the Federal Court responded to these arguments and Mr. Asgaraly failed to convince this Court that the Federal Court's reasoning is wrong, we see no reason to intervene.

[7] With respect to Mr. Asgaraly's argument that the CRA's process was procedurally unfair, the evidence does not support this claim. In this regard, we note that on November 26, 2020, shortly after Mr. Asgaraly started claiming the benefit, the CRA informed him of the nature of the income eligible for the benefit and of the need to consider the net self-employment income:

letter dated November 26, 2020, Appeal Book, at 148 to 150. The CRA subsequently communicated with Mr. Asgaraly, reviewed his application documentation and explained the reasons for its decision.

[8] We therefore dismiss the appeal with costs in the amount of \$200.

“Nathalie Goyette”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-268-23

STYLE OF CAUSE: ABASSE ASGARALY v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 18, 2024

**REASONS FOR JUDGMENT OF THE COURT
BY:** LOCKE J.A.
GOYETTE J.A.
WALKER J.A.

DELIVERED FROM THE BENCH BY: GOYETTE J.A.

APPEARANCES:

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