

CANADA / JUDGMENT

Fard v. Canada (Attorney General)

2025 FC 594

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Fard v. Canada (Attorney General) Court (s) Database Federal Court Decisions Date 2025-04-01 Neutral citation 2025 FC 594 File numbers T-1093-24 Decision Content Date: 20250401 Docket: T-1093-24 Citation: 2025 FC 594 Ottawa, Ontario, April 1, 2025 PRESENT: The Honourable Madam Justice Blackhawk BETWEEN: MORTEZA NAINI FARD Applicant and ATTORNEY GENERAL OF CANADA Respondent JUDGMENT AND REASONS (Delivered from the Bench on March 27, 2025. Edited for syntax and grammar.)

- [1] This is an application for judicial review of a decision of an officer (“Officer”) of the Canada Revenue Agency (“CRA”) dated April 19, 2024, that denied the Applicant’s eligibility for the Canada Recovery Caregiving Benefit (“CRCB”) because he did not care for a child or a family member for reasons related to the COVID-19 pandemic (“Decision”).
- [2] As I will explain, the Officer reasonably found that the Applicant was not eligible for the CRCB, and the Decision was made in a procedurally fair manner. I. Background [3] The Applicant applied for the CRCB for 11 one-week periods between January 31 and April 24, 2021. In July 2022, the CRA initiated a review of the Applicant’s CRCB eligibility. On October 18 and November 9, 2022, the Applicant uploaded documents to the CRA system.
- [4] By letter dated January 6, 2023, the First Reviewer concluded that the Applicant was not eligible for the CRCB because he did not earn at least \$5,000 of employment or net self-employment income in 2019, 2020, or in the 12 months prior to the application date (“First Review Decision”). The Applicant requested a second review of the First Review Decision on January 30, 2023.
- [5] On January 30, June 23, and July 25, 2023, the Applicant uploaded additional documents to the CRA system. Based on the information available to the Second Reviewer, they determined that the Applicant was not eligible for the CRCB (“Second Review Decision”). The results of the Second Review Decision were communicated to the Applicant by letter dated October 3, 2023.

- [6] On October 31, 2023, the Applicant applied for judicial review of the Second Review Decision. This application was ultimately discontinued on February 14, 2024, after the Second Review Decision was set aside and referred back to the CRA for a further second review by a different officer (“Further Second Review”). A. Further Second Review [7] The CRA assigned the Further Second Review to the Officer.
- [8] On April 9, 2024, the Applicant uploaded further documents to the CRA system.
- [9] On April 17, 2024, the Officer spoke with the Applicant. The Applicant confirmed that he did not care for a child or family member for reasons related to COVID-19 and that he applied for the CRCB by mistake.
- [10] On April 19, 2024, the Officer informed the Applicant of their Decision that he was not eligible for the CRCB as he was not caring for a child or family member for reasons related to COVID-19. Therefore, the Applicant did not meet the CRCB criteria.
- [11] The Applicant commenced his application for judicial review on May 9, 2024. He alleged that the Decision was unreasonable, unlawful and unfair. II. Legislation [12] The legislative framework for this application is the Canada Recovery Benefits Act, SC 2020, c 12, s 2 [CRB Act]. Paragraph 17(1)(f) of the CRB Act sets out the CRCB eligibility requirements relevant to this application.
- [13] To be eligible, the applicant must have, as an employee, been unable to work for at least 50% of the time they would have otherwise worked in that week—or they have, as a self-employed person, reduced the time devoted to their work as a self-employed person by at least 50% of the time they would have otherwise worked in that week—because: they cared for a child who was under 12 years of age on the first day of the week; or they cared for a family member who requires supervised care (CRB Act, s 17(1)(f)).
- [14] Individuals have an obligation to provide the Minister with any information the Minister may require in respect of an application for benefits (CRB Act, s 20). III. Issues [15] The issues to be addressed in this application are: Did the Applicant improperly name the Respondent? Was the Decision reasonable? Was the Decision procedurally fair? IV. Analysis A. Proper Respondent [16] The Respondent argued that the responding party should be the Attorney General of Canada rather than the CRA, pursuant to subsection 303(2) of the Federal Courts Rules, SOR/98-106. The Applicant did not make submissions on this issue.
- [17] I agree that the style of cause ought to be amended. Accordingly, the amendment will be made forthwith and with immediate effect. B. Standard of review [18] The applicable standard of review in this case is reasonableness (Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 [Vavilov] at paras 10, 23).

- [19] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (Vavilov at paras 12–15, 95). Reasons will satisfy these criteria if the Court is able to understand why the decision was made (Vavilov at paras 85–86). The Court must be satisfied that any shortcomings in the decision are sufficiently central or significant to intervene and render a decision unreasonable (Vavilov at para 100).
- [20] The standard of review applicable to determining if a decision maker complied with the duty of procedural fairness is generally described as correctness (Canadian Pacific Railway Company v Canada (Attorney General), 2018 FCA 69 at para 34, citing Mission Institution v Khela, 2014 SCC 24 at para 79). The question is: did the applicant know the case to be met, and did the applicant have a full and fair opportunity to make submissions? C. The Decision was reasonable [21] The Applicant argued that the application process is confusing. He indicated that he had difficulty following the telephone voice prompts to apply. He requested advice from a CRA officer, who allegedly indicated that when he called the number, he select certain numeric options. Based on this advice, the Applicant asserts he mistakenly applied for the CRCB. He acknowledged that he did not have caregiving responsibilities during the relevant period. His intention was to apply for the CRB. He asserts that the decision was unreasonable.
- [22] The Respondent submitted that the Decision ought not to be disturbed because it bares the hallmarks of reasonableness and is justified in relation to the relevant factual and legal constraints.
- [23] The eligibility criteria established by the CRB Act is statutory and non-discretionary. In other words, the Officer had no choice but to apply the CRB Act. Despite the Applicant's mistake in applying for the CRCB, the statute is paramount and determinative of this issue (Flock v Canada (Attorney General), 2022 FC 305 at para 23; Moghtaderi v Canada (Revenue Agency), 2024 FC 2069 at para 17; Ashurova v Canada (Attorney General), 2025 FC 428 [Ashurova] at para 54). D. The Decision was procedurally fair [24] The Applicant submitted that based on the advice from CRA, he applied by telephone using the numeric prompts as advised and this led to the mistaken application for CRCB. However, there are no records or other evidence available in support of this assertion. Further, this Court has confirmed that the representations of officers regarding eligibility cannot override the CRA's duty to apply the non-discretionary legislative criteria and is determinative of an applicant's eligibility (Coscarelli v Canada (Attorney General), 2022 FC 1659 at para 22).
- [25] The Respondent argued that allegations of procedural unfairness related to the Decision are not established. The Respondent noted that the Applicant took advantage of the opportunity to make supplemental submissions for consideration by the Officer. The record demonstrates that the Officer considered the supplementary submissions.

- [26] In the context of decisions made under the CRB Act, the level of procedural fairness owed is at the low end of the spectrum (Ashurova at para 61, citing Cozak v Canada (Attorney General), 2023 FC 1571 at para 17).
- [27] The record illustrates that the Applicant was provided opportunities to give additional information in two separate phone calls on March 4 and April 17, 2024.
- [28] The Applicant asked and responded to questions. In my view, the Applicant knew the case he had to meet, and he was given a full and fair opportunity to make submissions, which the Officer considered.
- [29] In my view, the Decision was made in a procedurally fair manner. V. Conclusion [30] The Decision is reasonable and was made in a procedurally fair manner. Accordingly, this application for judicial review is dismissed without costs.
- [31] I conclude by stating that I understand the Applicant's grievances and concerns. I am empathetic to the Applicant's situation; however, the CRB Act is clear and there is no room for discretion—officers are required to apply the eligibility criteria to everyone. There is little doubt that this has been a frustrating process for the Applicant.
- [32] I am concerned that the Applicant has indicated that in his dealings with CRA, some officers have been unhelpful, discourteous, and unsympathetic to the situation that the Applicant and many Canadian taxpayers have found themselves in. That said, the legislative criteria are clear, there is no discretion and therefore the Decision is reasonable. JUDGMENT in T-1093-24 THIS COURT'S JUDGMENT is that: The style of cause is hereby amended to reflect the Attorney General of Canada as the proper Respondent. The application for judicial review is dismissed. There is no order as to costs. "Julie Blackhawk" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: T-1093-24 STYLE OF CAUSE: MORTEZA NAINI FARD v ATTORNEY GENERAL OF CANADA PLACE OF HEARING: Ottawa, Ontario DATE OF HEARING: MARCH 27, 2025 JUDGMENT AND REASONS: BLACKHAWK J. DATED: APRIL 1, 2025 APPEARANCES: Morteza Naini Fard For The Applicant ON THEIR OWN BEHALF Michel Osvath-Langlais For The Respondent SOLICITORS OF RECORD: Attorney General of Canada Ottawa, Ontario For The Respondent

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