

CANADA / JUDGMENT

Nasroullah v. Canada (Revenue Agency)

2025 FC 489

COURT

Federal Court

DECIDED

17 March 2025

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Nasroullah v. Canada (Revenue Agency) Court (s) Database Federal Court Decisions Date 2025-03-17 Neutral citation 2025 FC 489 File numbers T-1011-23 Decision Content Date: 20250317 Docket: T-1011-23 Citation: 2025 FC 489 [ENGLISH TRANSLATION] Ottawa, Ontario, March 17, 2025 PRESENT: The Honourable Madam Justice Ngo BETWEEN: IBTISSAM NASROULLAH Applicant and CANADA REVENUE AGENCY Respondent JUDGMENT AND REASONS I. Background [1] The applicant, Ibtissam Nasroullah [applicant], seeks judicial review of the second review decisions of a Canada Revenue Agency [CRA] officer who found her ineligible for the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB] because she did not meet the minimum income eligibility criteria and because she ceased working for reasons other than COVID-19 [Decisions]. The applicant challenges these findings by asserting that she lost her income because of COVID-19 and that she complied with the minimum income requirements.

- [2] For the reasons that follow, the application for judicial review is dismissed. There was no documentation to support that the applicant met the minimum income threshold, and she confirmed that she had ceased working for reasons other than COVID-19. The Court cannot find that the impugned Decisions were unreasonable. II. Relevant facts and Decisions under review [3] The CERB and CRB are part of a set of measures introduced by the Government of Canada in response to the impacts of the COVID-19 pandemic. The applicant received CERB payments between March 15, 2020, and September 26, 2020 (periods 1 to 7). She also received CRB payments between September 27, 2020, and October 9, 2021 (periods 1 to 27). The applicant states that she had a small business selling homemade Moroccan family meals and cakes. She did this work on a part-time basis while she waited to find a job. She claims that she sold these meals through WhatsApp and that all transactions were made in cash.
- [4] On September 29, 2022, the CRA sent a letter to the applicant informing her that she had been selected for a first review of her eligibility for the CRB and CERB. The CRA asked her to provide evidence to demonstrate that she met the necessary requirements. On October 5, 2022, the CRA received a letter from the applicant dated October 3, 2022, explaining that she was a self-employed baker (fine patisserie, cakes, cooked dinners) and that she had not requested any receipts or submitted any invoices. The applicant confirmed that her income

was \$5,000, as reported on her tax returns. She explained that all payments were made in cash.

- [5] On January 13, 2023, the first review officer sent two letters to the applicant informing her that she was not eligible for the CERB or the CRB [First Review Letters]. She was not eligible for the CERB because she had not [translation] “earned at least \$5,000 (before taxes) of employment income or net self-employment income in 2019, in 2020, or in the 12-month period preceding the day on which she made her first application”. The second letter explained that she was not eligible for the CRB because she had not [translation] “earned at least \$5,000 (before taxes) of employment or self-employment income in 2019 or in the 12-month period preceding the day on which she made her first application”.
- [6] The applicant requested a second review from the CRA. As part of the second review, the applicant provided a letter dated January 19, 2023, outlining her challenge to the First Review Letters and the reasons for her challenge. In her letter, the applicant described her situation with respect to the CRB and the CERB. She indicated that she had lost her entire business during the COVID-19 pandemic because no one was ordering her meals and she did not do deliveries. She noted that her 2019 tax return clearly showed \$5,000 in income from her business. She asked the CRA to rely on this document as it was the only evidence she had to support these claims. She further explained that her family had suffered financial hardship due to the pandemic and was still trying to recover. Then, on March 29, 2023, the applicant submitted an Excel spreadsheet titled [translation] “Revenue Sheet” showing a breakdown of the approximate amounts earned from February 2019 to March 2020. During a phone call with a CRA officer, the applicant explained that she had not kept invoices for the expenses incurred for recipe ingredients. She also told the officer that she had been unable to work because of a health issue.
- [7] On April 12, 2023, the CRA sent a letter to the applicant informing her that following the second review, she was ineligible for the CERB for two reasons. First, she had not earned at least \$5,000 (before taxes) of employment or self-employment income in 2019 or in the 12-month period preceding the day on which she made her first application. Second, she had not ceased working or had her hours reduced because of COVID-19. A second letter was sent to the applicant on April 13, 2023, after the second review, which found the applicant ineligible for the CRB as she had not earned at least \$5,000 (before taxes) of employment income and/or net self-employment income in 2019, in 2020, or in the 12-month period preceding the day on which she made her first application. The second review also found that she had not ceased working because of COVID-19.
- [8] In light of the Decisions, the CRA asked the applicant to repay the CRB and CERB payments in full. Those Decisions are the subject of this judicial review. III. Issues and standard of review [9] The issue in this case is whether the Decisions finding the applicant ineligible for both the CERB and the CRB were reasonable. The standard of review applicable to the merits of the Decisions is reasonableness (Canada (Minister of Citizenship and Immigration) v Vavilov, [2019] 4 SCR 653 at paras 16–17 [Vavilov]; Aryan v Canada (Attorney General), 2022

FC 139 at paras 15–16 [Aryan]; Hayat v Canada (Attorney General), 2022 FC 131 at para 14).

- [10] As I explained to the applicant at the hearing, the Court cannot determine her eligibility on judicial review. A court on judicial review does not attempt to ascertain the range of possible conclusions that would have been open to the decision maker, conduct a *de novo* analysis or seek to determine the correct solution to the problem (Vavilov at para 83). The Court cannot reweigh or reassess the evidence considered by the decision maker (Vavilov at para 125).
- [11] A reasonable decision is one that is based on a coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker (Vavilov at para 85). The burden is on the party challenging the decision to show that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency (Vavilov at para 100).
- [12] I also note that the Decisions under review include both the reasons set out in the letters of April 12, 2023, and April 13, 2023, as well as the CRA's notes. The notes are an integral part of the decision rendered (Aryan at para 22). Here, the Court must consider those notes in its judicial review.
- IV. Analysis [13] The CRB was created under the Canada Recovery Benefits Act, SC 2020, c 12, s 2 [CRB Act]. Section 3 of the CRB Act sets out the eligibility requirements for the CRB. A person is eligible if, in the case of an application in respect of a two-week period beginning in 2020, they had, for 2019 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000. Furthermore, during the two-week period covered by the benefit, for reasons related to COVID-19, a self-employed person must have not been self-employed or must have had a reduction of at least 50% in their work for the year or in the 12-month period preceding the day on which they made the application.
- [14] The CERB was created under the Canada Emergency Response Benefit Act, SC 2020, c 5, s 8 [CERB Act]. Under section 2 of the CERB Act, only workers who can prove, for 2019 or in the 12-month period preceding the day on which they make an application, that they had at least \$5,000 in employment or self-employment income are eligible for the CERB. Then, section 6 of the CERB Act requires that the worker, whether employed or self-employed, ceased working for reasons related to COVID-19.
- [15] On the one hand, the applicant asks the Court to recognize her eligibility for the CERB and the CRB and thereby declare the Decisions unreasonable. She submits that the Decisions were unreasonable because she met the \$5,000 threshold for the CERB and the CRB. She also challenges the finding that she ceased working for reasons other than COVID-19.

- [16] On the other hand, the respondent submits that the Decisions are based on a coherent and rational analysis that is justified in relation to the facts and law. The requirements outlined in the legislation governing the CERB and the CRB are non-discretionary. The evidence before the officer showed that the applicant did not meet the \$5,000 financial threshold and that she had ceased working for health reasons unrelated to COVID-19. The impugned Decisions are therefore reasonable, as they are based on the evidence and the law.
- [17] The applicant shared the hardships that she had experienced. Before the Court, she explained the challenges that her family had faced, the efforts she had made to find a job, and the steps she had taken to help her children integrate into Canada. She did not think that she needed to establish a company or issue receipts or invoices. She did not deposit the funds she received in her bank account because the amounts she received were, in her opinion, minimal.
- [18] I am sympathetic to the applicant's circumstances. However, the issue before the Court is whether, in light of the applicable law and the facts, it was reasonable for the CRA to conclude that the applicant was ineligible for the benefits.
- [19] In communications with the officer, the applicant was notified that the CRA was requesting evidence such as an invoice, a receipt, or evidence of bank deposits. This type of follow-up is provided for in the legislation applicable to the CERB and the CRB (subsection 5(3) of the CERB Act and section 6 of the CRB Act).
- [20] In this case, the applicant confirmed that she had no documentation to support her position that she met the minimum requirement of \$5,000. Then, at the time of the second review, she prepared and submitted a document titled [translation] "Revenue Sheet", which listed the dollar value of orders placed in 2019 and in early 2020.
- [21] The respondent notes that it was reasonable for the officer not to rely on the [translation] "Revenue Sheet", particularly in light of the applicant's evidence that she had not issued any receipts or invoices for those transactions and had not deposited those payments in her bank account. In addition, the amount claimed on the [translation] "Revenue Sheet" did not match the income reported on her assessment. Finally, the dollar value indicated on the [translation] "Revenue Sheet" did not reflect her expenses, which would have reduced the gross income reported even if the officer had found that this document was sufficient.
- [22] I confirm that there was no documentation linking the revenues on the [translation] "Revenue Sheet" to the income reported. It was certainly open to the applicant to accept only cash payments, but she was also responsible for demonstrating that she had earned and received those amounts. Without further documentation, all that remains is a bald assertion.

- [23] While the applicant submits that she genuinely believed she was eligible for the CERB and the CRB, this Court has repeatedly held that, with respect to COVID-19 benefits, the onus is on the applicants to inform themselves of the eligibility criteria for each benefit and to prove that those criteria have been met (*He v Canada (Attorney General)*, 2022 FC 1503 at paras 25, 27).
- [24] Considering the record as a whole and the applicable law, I find that the Decisions are based on an analysis that is coherent, rational and justified in relation to the facts and applicable law. In other words, the second review officer's conclusion that the applicant was ineligible for both the CERB and the CRB was reasonable. Without evidence that the applicant worked and was paid, it was reasonable for the officer to conclude that she did not meet the eligibility criteria.
- [25] The applicant indicates that she did not try to [translation] "abuse" the system. My conclusion in this case is limited to finding that there was not enough evidence to prove on a balance of probabilities that the applicant was eligible according to the criteria set out in the CRB Act and the CERB Act (*Walker v Canada (Attorney General)*, 2022 FC 381 at para 55).
- [26] Furthermore, the argument that a tax assessment is conclusive evidence of the required income for the purposes of an application for COVID-19 benefits has been repeatedly rejected by this Court (*Aryan* at para 35). The Court must therefore reject the applicant's argument that she met the \$5,000 requirement, which was based on her tax assessment.
- [27] Finally, I cannot find that it was unreasonable for the officer to conclude that the applicant did not cease working because of COVID-19. The evidence in the record confirms that the applicant had to cease working because of a personal health issue.
- [28] The applicant notes that the financial challenge is considerable and that she had submitted her application in good faith. While that may be true, it is not enough to cause this Court to lose confidence in the reasonableness of the CRA's Decisions. I understand that this is very difficult for the applicant, but, on the basis of the record and the information before the officer, I cannot conclude that the officer made a reviewable error. V. Conclusion [29] The respondent did not seek costs.
- [30] The application for judicial review is dismissed, without costs. JUDGMENT in T-1011-23 THIS COURT'S JUDGMENT is as follows: The application for judicial review is dismissed, without costs. "Phuong T.V. Ngo" Judge Certified true translation Margarita Gorbounova, Senior Jurilinguist FEDERAL COURT SOLICITORS OF RECORD DOCKET: T-1011-23 STYLE OF CAUSE: IBTISSAM NASROULLAH v CANADA REVENUE AGENCY PLACE OF HEARING: OTTAWA, ONTARIO DATE OF HEARING: MARCH 3, 2025 JUDGMENT AND REASONS BY: NGO J DATED: MARCH 17, 2025 APPEARANCES: Ibtissam Nasroullah FOR THE APPLICANT (SELF-REPRESENTED) Noémie Martel FOR THE RESPONDENT SOLICITORS OF RECORD: Attorney General of Canada Ottawa, Ontario FOR THE RESPONDENT

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