

CANADA / JUDGMENT

Tremblay v. Canada (Attorney General)

2024 FC 1916

COURT

Federal Court

DECIDED

28 November 2024

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Tremblay v. Canada (Attorney General) Court (s) Database Federal Court Decisions Date
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Docket: T-810-24 Citation: 2024 FC 1916 Ottawa, Ontario, November 28, 2024 PRESENT: The
Honourable Mr. Justice Ahmed BETWEEN: LISE TREMBLAY Applicant and THE ATTORNEY
GENERAL OF CANADA THE ATTORNEY GENERAL OF CANADA Respondent JUDGMENT AND
REASONS I. Overview

- [1] The Applicant, Lise Tremblay (Ms. “Tremblay”), seeks judicial review of a decision of the Canada Revenue Agency (“CRA”) dated March 11, 2024, in which a Canada Emergency Benefits Validation Officer (the “Officer”) determined that she was not eligible for certain instalments of the Canada Recovery Benefit (“CRB”).
- [2] Ms. Tremblay requests that the decision be returned for reconsideration, asserting that her biweekly pay decreased by 50% during the relevant payment periods and that she was therefore eligible to receive the CRB.
- [3] I am mindful of the fact that Ms. Tremblay is a self-represented litigant and commend her for her self-representation before this Court. Though I am sympathetic to her position, I find that there is no legal basis for overturning the Officer’s decision. This application for judicial review is dismissed. II. Facts
- [4] The CRB is a benefit that provided income support for individuals who were adversely affected by the COVID-19 pandemic. The legislative framework for the CRB is the Canada Recovery Benefits Act, SC 2020, c 12, s 2 (“CRB Act”).
- [5] The CRB Act establishes two income thresholds for receiving the CRB: (1) earnings of at least \$5,000 in 2019, 2020 or the 12-month period before applying for support (CRB Act, ss 3(1)(d)-(e.1)); and (2) a 50% reduction in average weekly income during each payment period, compared to 2019, 2020, or the 12-month period before applying for support (CRB Act, s 3(1)(f)).
- [6] Between December 6, 2020 and October 23, 2021, Ms. Tremblay received 23 instalments of the CRB.

- [7] On June 23, 2023, the CRA reviewed Ms. Khan's eligibility for the CRB, finding that she was not eligible for any of the 23 payments received (the "First Review Decision"). According to the CRA, Ms. Tremblay did not have earnings of at least \$5,000 in 2019, 2020, or the 12-month period before her first application, contrary to subsection 3(1) of the CRB Act.
- [8] Ms. Tremblay sought a second review of this decision. During the review process, she provided the Officer with additional material about her eligibility, including bank statements, pay records, and documents from her employer.
- [9] On March 11, 2024, the Officer determined that Ms. Tremblay was ineligible for 12 of the 23 CRB instalments received (the "Second Review Decision"). Although the Officer agreed that Ms. Tremblay met the \$5,000 income requirement, they found that she did not have a 50% reduction in her average weekly income in 12 of the 23 payment periods. This is the decision that is presently under review. III. Preliminary Matter
- [10] The Respondent submits that the style of cause should be amended to identify the Attorney General of Canada as the Respondent, rather than the Canada Revenue Agency. I agree. The style of cause is amended effective immediately, in accordance with Rule 303(2) of the Federal Courts Rules, SOR/98-106. IV. Issue and Standard of Review
- [11] The sole issue in this application is whether the Second Review Decision is reasonable.
- [12] The standard of review is not disputed. The Respondent submits that the applicable standard of review is reasonableness (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17, 23-25 ("Vavilov")). I agree.
- [13] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13; 75; 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole is one that is based on an internally 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). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).
- [14] For a decision to be unreasonable, applicants must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep" (*Vavilov* at para 100) V. Analysis

- [15] Ms. Tremblay submits that she was eligible for the CRB during the 12 relevant payment periods, stating that her biweekly earnings during this time were less than or equal to 50% of her biweekly earnings in the previous year.
- [16] The Respondent submits that the Second Review Decision is reasonable. The Respondent does not dispute the change in Ms. Tremblay's biweekly pay. However, the CRB Act requires a 50% reduction in average weekly income, not a 50% reduction in biweekly pay (CRB Act, s 3(1)(f)). Since Ms. Tremblay earned more than 50% of her average weekly income during the 12 payment periods at issue, she was not eligible for the CRB.
- [17] The Respondent is correct.
- [18] The CRB Act clearly stipulates that the 50% income reduction threshold refers to an individual's "average weekly employment income or self-employment income" (CRB Act, s 3(1)(f)). Average weekly income on a biweekly basis is calculated by dividing a person's total yearly income by 52 and then multiplying this number by 2.
- [19] Average weekly income is therefore distinct from biweekly pay. There is no disagreement that Ms. Tremblay's biweekly pay decreased by at least 50% during the relevant payment periods. However, this does not affect Ms. Tremblay's eligibility for the CRB.
- [20] As a result, I find that the Second Review Decision is reasonable. Ms. Tremblay's average weekly income was correctly calculated according to section 3(1)(f) of the CRB Act. She did not have a 50% reduction in these values during 12 of the 23 payment periods. She was therefore not eligible for the CRB.
- [21] During the hearing, Ms. Tremblay argued that the Officer disregarded her evidence, highlighting a statement by the Officer that they "did not review" several documents as they "were not made available...during the second review." However, the information that was before the Officer was sufficient to assess Ms. Tremblay's eligibility. The Officer did not make a mistake by failing to refer to further evidence, since Ms. Tremblay's bank statements, the letters from her employer, and other available materials clearly demonstrated that Ms. Tremblay earned more than 50% of her average weekly income during 12 of the 23 payment periods, making her ineligible for the CRB (CRB Act, s 3(1)(f)). VI. Conclusion
- [22] For these reasons, I find that the Second Review Decision is reasonable. The Officer duly considered Ms. Tremblay's submissions and provided a decision that is justified in light of the CRB Act (Vavilov at para 85). This application for judicial review is dismissed.
- [23] The Respondent sought costs in this matter. Given Ms. Tremblay's position as a self-represented litigant, I do not find a costs award to be appropriate (*Lalonde v Canada (Revenue Agency)*, 2023 FC 41 para 97; *Latourell v Canada (Attorney General)*, 2024 FC 44). JUDGMENT in T-810-24 THIS COURT'S JUDGMENT is that: The style of cause is amended to identify the Respondent as the Attorney General of Canada effective immediately. This application for judicial review is dismissed without costs. "Shirzad A." Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: T-810-24 STYLE OF CAUSE: LISE TREMBLAY v

THE ATTORNEY GENERAL OF CANADA PLACE OF HEARING: Ottawa, Ontario DATE OF HEARING: October 28, 2024 JUDGMENT and reasons: AHMED J. DATED: November 28, 2024 APPEARANCES: Lise Tremblay (own her own behalf) For The Applicant Garth Macdonald For The Respondent SOLICITORS OF RECORD: Attorney General of Canada Ottawa, Ontario For The Respondent

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Prepared on 28 October 2026 · Esheria