

Federal Court



Cour fédérale

Date: 20241220

Docket: T-1501-23

Citation: 2024 FC 2086

Ottawa, Ontario, December 20, 2024

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

CYNTHIA COTTREAU

Applicant

and

CANADA REVENUE AGENCY

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench on December 12, 2024. Edited for grammar and syntax.)

I. Introduction

[1] The Applicant, Ms. Cottreau, seeks judicial review of a decision by the Canada Revenue Agency (“CRA”) that she was not eligible for the Canada Emergency Recovery Benefit (“CERB”) for the periods between March 15, 2020, to August 1, 2020, and only partially eligible for the period between August 2–29, 2020, because she received both the CERB and Employment Insurance (“EI”) benefits during those periods.

[2] Ms. Cottreau says the decision was not reasonable because when she applied for CERB, she was only receiving partial EI benefits because she was only working part-time, due to a seasonal slow-down at her place of work.

[3] The eligibility criteria for CERB are statutory and non-discretionary; the Minister has no choice but to apply them. The Minister reasonably found Ms. Cotteau was not eligible for CERB.

[4] Ms. Cottreau was given opportunities to present her case to the CRA. She was given a full and fair opportunity to make submissions, which the officers took into account in rendering their decision.

[5] Accordingly, the application for judicial review must be dismissed.

II. Background

[6] Ms. Cottreau worked at Rudders Seafood Restaurant and Brew Pub. This business, like many in Southwest Nova Scotia, is seasonal, relying on summer tourism.

[7] The Applicant applied for EI benefits in January 2020 due to a shortage of work, and received \$214.00 per week, minus deductions for money received from her ongoing part-time work with her employer.

[8] The Applicant applied for and received CERB benefits from March 15–September 26, 2020.

[9] On October 31, 2022, a redetermination for periods 1–5 (March 15–August 1, 2020) was issued as the Applicant was found to have received both the CERB and EI benefits during those periods.

[10] On November 7, 2022, a second redetermination for period 6 (August 2–29, 2020) was issued as the Applicant was found to have received both the CERB and EI benefits in that period.

[11] On November 10, 2022, the Applicant was advised through a Notice of Redetermination that she was not eligible for CERB for periods 1–5, and on November 17, 2022, a second Notice of Redetermination advised her that she was only partially eligible for CERB for period 6.

[12] On November 29, 2022, the Applicant requested a second review of her Notices of Redetermination.

[13] An officer with CRA performed a second review and on June 12, 2023, confirmed that the Applicant had received both CERB and EI benefits for periods in question.

[14] On June 19, 2023, the Applicant received the Minister’s decision, advising that she was not eligible for the CERB for periods 1–5 and only partially eligible for period 6 because she had also received EI during those time periods.

III. Issues

[15] The two issues in this Application are:

- A. What is the Standard of Review?
- B. Was the Minister’s decision reasonable?

[16] An Officer’s decision is subject to review by this Court using the standard of reasonableness; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 23. This Court will only intervene if it is satisfied 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). The criteria are met if the

reasons permit the Court to understand why the decision was made, and determine if the decision falls within the range of acceptable outcomes in respect of the facts and law (*Vavilov* at paras 85–86).

[17] CERB is a benefit that was intended to provide financial support to workers who experienced income loss due to the COVID-19 pandemic.

[18] The enabling legislation is the *Canada Employment Recovery Benefits Act*, SC 2020, c 5 [*CERB Act*]. Subparagraph 6(1)(b)(ii) of the *CERB Act* sets out that a worker is eligible for an income support payment if they do not receive benefits, as defined in subsection 2(1) of the *Employment Insurance Act*, SC 1996, c 23 [*EI Act*]. Subsection 2(1) of the *EI Act* defines “benefits” as unemployment benefits payable under Part I, VII.1, or VIII. Part I of the *EI Act* provides for unemployment benefits, Part VII.1 provides for benefits for self-employed persons, and Part VIII provides for benefits for self-employed persons engaged in fishing.

[19] The criteria set out in the *CERB Act* are statutory and non-discretionary.

[20] Therefore, the officer’s Decision that the Applicant was not eligible for benefits for periods 1–5 and partially for period 6 is reasonable.

[21] I understand that this seems unfair. However, disagreeing with a decision is different from a decision being unreasonable. I understand that the Applicant has experienced hardship as a result of the pandemic, and now this decision. However, the *CERB Act* is clear, and it is determinative.

IV. Conclusion

[22] The Application for judicial review is dismissed.

[23] The Respondent seeks its costs in this Application. Ms. Cottreau is self-represented, and it is clear she has experienced hardship as a result of this decision. Having regard to all the circumstances and factors in relation to the awarding of costs, I am exercising my discretion to not award costs against her.

JUDGMENT in T-1501-23

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No order as to costs.

“Julie Blackhawk”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1501-23

STYLE OF CAUSE: CYNTHIA COTTREAU v CANADA REVENUE AGENCY

PLACE OF HEARING: HALIFAX, NOVA SCOTIA

DATE OF HEARING: DECEMBER 12, 2024

JUDGMENT AND REASONS: BLACKHAWK J.

DATED: DECEMBER 20, 2024

APPEARANCES:

Cynthia Cottreau

FOR THE APPLICANT
ON THEIR OWN BEHALF

Caitlin Ward

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Halifax, Nova Scotia

FOR THE RESPONDENT