Federal Court Cour fédérale

Date: 20250522

Docket: T-2501-24

Citation: 2025 FC 933

Ottawa, Ontario, May 22, 2025

PRESENT: The Honourable Madam Justice Tsimberis

BETWEEN:

MARIE-ISABELLE FOURNIER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Marie-Isabelle Fournier [Applicant], a self-represented individual, seeks judicial review of a decision made by a benefits validation officer [Fourth Reviewer] of the Canada Revenue Agency [CRA] dated August 26, 2024 [Decisions], finding that the Applicant was not eligible for the Canada Emergency Response Benefit [CERB] and the Canada Recovery Benefit [CRB]. Based on the fourth review, it was determined that the Applicant was not eligible because she

had not met the $5,000 (before taxes) income from employment and/or self-employment threshold.

[2] This is the Applicant's third application for judicial review with respect to the CRA's determination that the Applicant was ineligible to receive CERB and CRB benefits as she did not meet the $5,000 of employment and/or self-employment income needed for the benefits.

[3] I agree with the Respondent that the issue before the Fourth Reviewer was to determine whether the amount of $2,248.00 received by the Applicant through an initiative known as a Job Creation Partnership [JCP] constituted income from employment. If that JCP income of $2,248.00 was properly established as income from employment, then the Applicant's total income from the sources prescribed by the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 [CERB Act] and *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [CRB Act] would exceed $5,000, rendering the Applicant eligible for the CERB and the CRB benefits. If not, the Applicant would be ineligible for both the CERB and the CRB benefits.

[4] For the following reasons, and in conformity with the role of this Court in a judicial review, I find that the Decisions are not unreasonable and were arrived at in a procedurally fair manner.

II. Factual Background

[5] In 2019, the Applicant earned $3,668.12 in income from employment, which was reported as such on a T4 "Statement of Remuneration Paid" issued by Beaton Arm

Reforestation, 1035449 B.C. Ltd. The Applicant also earned $2,248.00 in connection with her participation in a JCP, which was reported on a T4A “Statement of Pension, Retirement, Annuity and Other Income” slip in Box 28 issued by Arrow & Slocan Lakes Community Services [ASLCS].

[6] The Applicant received the CERB between March 15, 2020 and September 26, 2020, and the CRB between September 27, 2020 and April 24, 2021.

[7] On June 6, 2024, in *Fournier v Canada (Attorney General)*, 2024 FC 859 [*Fournier*], this Court allowed the Applicant’s second application for judicial review, quashed the prior decisions of the CRA, and returned the matters to a different CRA officer for redetermination. In *Fournier*, at paragraph 29, Justice Southcott held the decisions of the CRA were not reasonable as “the [d]ecisions do not explain why the Officer concluded that the relevant income did not support eligibility, either through consideration of the [Employment Insurance Act] or otherwise.” The Court accepted the Respondent’s concession that the decisions do not provide reasons why the income claimed in Box 28 of the Applicant’s 2019 T4A does not meet the requirements to support eligibility for the benefits (*Fournier* at para 28). In addition, the Court agreed with the Respondent’s concession that the record supports the Applicant’s argument that she was deprived of the requisite procedural fairness, notwithstanding express references in the Officer’s notes to providing such an opportunity. The Court consequently held that the Applicant was to be afforded an opportunity to provide further evidence and submissions (*Fournier* at paras 30, 47). Lastly, the Court considered several arguments of the Applicant and held that the record does not

support an inference of bias or reasonable apprehension of bias on the part of the Officer (*Fournier* at paras 34-35).

[8] On June 21, 2024, the Applicant submitted new documents to the Fourth Reviewer, including a letter from Ms. Amy Payne [Ms. Payne], an Employment Counsellor from the Nakusp Work BC Centre, explaining the source of the Applicant's Box 28 income of $2,248.00 on her T4A slip. Ms. Payne's letter explained that the Applicant "participated in JCP (Job Creation Partnership) program: April 23, 2019 – May 17, 2019. She was receiving financial support while participating in the project", "a work experience/training program" whose primary objective and focus was to provide the Applicant with meaningful, recent work experience to help her achieve sustainable employment. The letter explained that the amounts paid to the Applicant reported in Box 28 of the T4A were a "living support" or "financial support" and "not a fee for service that could have been entered into box 48", and that this income did not pay into Employment Insurance and Canada Pension Plan withholdings.

III. Decisions under Review

[9] Following a review of the new documents submitted by the Applicant, the Fourth Reviewer determined that the Applicant's income from the JCP was not income from employment.

[10] By letters dated August 26, 2024, the Fourth Reviewer notified the Applicant of its Decisions. With respect to the Applicant's CERB eligibility, the Fourth Reviewer found that she "did not earn at least $5,000 (before taxes) of employment and/or self-employment income in

2019 or in the 12 months before the date of [her] first application". As for her CRB eligibility, the Fourth Reviewer found that the Applicant "did not earn at least $5,000 (before taxes) of employment and/or net self-employment income in 2019, 2020, or in the 12 months before the date" of her application.

[11] The Fourth Reviewer's notes in the T1Case agency-wide notepad are part of the reasons for the Decisions denying CERB and CRB benefits (*Aryan v Canada (Attorney General)*, 2022 FC 139 [*Aryan*] at para 22). The Fourth Reviewer's notes entered on August 22, 2024 in the T1Case notepad are virtually identical for both its CERB and the CRB Decisions and those relevant sections from the CERB Decision are reproduced below:

> She has received payment for the Job Creation Partnership on the dates mentioned below:
>
> May 2, 2019: 554.38$
> May 15, 2019: 1002.13$
> May 30, 2019: 554.38$
>
> These amount cannot be included as an employment income, as only provincial and federal taxes have been deducted. No Employment Insurance deduction was done as the payment received was a living support, not an income from an employment with work hours that would be calculated for EI.
>
> […]
>
> Benefit Recipient has sent a letter which states that the amount she received from April 23, 2019 to May 17, 2019 are not from an employment but a financial support, as BR participated in the project JCP (Job Creation Partnership).
>
> The letter also states that these earnings were living support and not a fee service that could have been entered into box 48, the initiatives provides eligible Clients with needed work experience and skill enhancement while also benefiting the community and local economy and that the primary objective and focus must be on

> helping Clients gain meaningful, recent work experience that will support them in achieving Sustainable Employment.
>
> To conclude, the letter states that the participants are in a work experience/trainings program, and receiving negotiated financial support (living allowance), which does not pay into EI insurable hours or CPP. The letter sent is signed by Amy Payne who is an Employment Counsellor at Nakusp Work BC Centre.
>
> Benefit Recipient has also sent the Employment Insurance Act articles 26 and 59d, however this law cannot be applied in this situation, as Service Canada uses this law to guarantee that Canadian workers fulfill EI criteria and eligibility.
>
> For CERB eligibility, the law and requirements that are used to base the decision are separate from the Employment Insurance Act.
>
> CERB has its own criteria and law based implications and articles, hence the Employment Insurance Act does not have any grounds in the application of CERB on the reasons of denial or approval unless a worker has paid benefits under any of subsections 22(1), 23(1), 152.04(1) and 152.05(1) of the Employment Insurance Act.
>
> Benefit Recipient was paid $2248 as living support which confirms why it was declared in box 028, the amount earned does not come from an employment, but from a living support provided by the program Benefit Recipient was registered to and in order to have an eligible income, the amount received must come from an employment, self-employment or allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption.
>
> […]

IV. Preliminary Issue – New Evidence

[12] The Respondent rightly raises the issue that the Applicant included evidence in her record before the Court that should not be admissible.

[13] First, the Respondent submits that the Applicant's Affidavit dated October 4, 2024, contains a letter from Mr. Tim Payne, Executive Director of ASLCS, dated September 19, 2024 (Exhibit 2) and the Applicant guide for the JCP (Exhibit 4), which were not before the Fourth Reviewer during the fourth review.

[14] The Applicant explains that in Exhibit 2, it is stated that the ASLCS has been advised from their contract holder that there is another T4 they recommend using that applies to the JCP, namely, T4E Box 17, and that this has never been mentioned to her by the CRA. In that letter, ASLCS explains that after being advised by their contract holder that "they report support payments from JCP's to participants, not on a T4A but on a T4E", they presented this information to their accountant and the response was that they should first contact CRA before amending T4A, as a T4 is a legal document that would need authorization from CRA to be amended. Therefore, ASLCS asked for the authorization of CRA to amend the slip(s). The Applicant further outlines that Exhibit 2 refers to "the Ministry of Social Development and Poverty Reduction – Job Creation Partnership- Application Guide" [JCP Guide], which she included as Exhibit 4. The JCP Guide (Exhibit 4) explains the allowance that was provided to the Applicant. However, the Applicant submits that she had never seen that document given that the applicant was KASA, the organization who benefited from an employee, and there is no mention of the Global Pandemic of Covid-19, CERB nor CRB in the JCP Guide.

[15] Second, the Respondent submits that the Applicant's Memorandum of Fact and Law introduces evidence under the guise of argument at paragraph 24 as it contains a detailed

description of work the Applicant performed during the JCP that does not appear anywhere else in the record.

[16] In the normal course, evidence that was not before the decision maker and that goes to the merits of the matter is not admissible in an application for judicial review before this Court (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*Access Copyright*] at para 19). In *Access Copyright*, the Federal Court of Appeal held, at paragraph 20, that there are a few recognized exceptions to the general rule, which "exist only in situations where the receipt of the evidence by the Court is not inconsistent with the differing roles of the judicial review court and the administrative decision-maker". The Federal Court of Appeal listed the following three non-exhaustive exceptions:

i. Where the new evidence provides general background information in circumstances where that information might assist in understanding the issues relevant to the judicial review but does not add new evidence on the merits;
ii. Where the new evidence brings to the attention of the reviewing court procedural defects not found in the evidentiary record of the decision maker; and
iii. Where the new evidence highlights the complete absence of evidence before the decision maker on a particular finding.

[17] After a careful review of the record before the Court, I agree with the Respondent that Exhibits 2 and 4, not only postdate the Decisions, but go directly to the core issue that was before the Fourth Reviewer, namely, determining the nature of the payments made to the Applicant in connection with her participation in the JCP. Paragraph 24 of the Applicant's Memorandum of Fact and Law, which detailed the work she performed during the JCP, appears to be tendered to counter the Fourth Reviewer's finding that the primary focus of the JCP was to benefit the

Applicant. Therefore, I am not satisfied that any of the above *Access Copyright* exceptions are applicable, which would allow for this new evidence's admissibility. Rather, I am of the view that they are put forward to support an alternate view of the nature of the payments made than the one concluded by the Fourth Reviewer. As such, they are inconsistent with this Court's role in judicial review, which is to "not delve into or re-decide the merits of what the [CRA] has done" (*Access Copyright* at para 18).

V. Issues and Standard of Review

[18] The issues are best characterized as:

1. Whether the Fourth Reviewer breached the Applicant's right to procedural fairness; and
2. Whether the Fourth Reviewer's Decisions concluding the payments received by the Applicant through the JCP were not income from employment were unreasonable.

[19] As for the standard of review when conducting a judicial review, it depends on the issue before the Court. According to the Applicant, the second issue above is to be determined on a standard of correctness but provides no authority for this assertion. I agree with the Respondent who submits that the issue of procedural fairness is determined on the basis that approximates correctness review (*Canada (Minister of Citizenship and Immigration) v Vavilo*v, 2019 SCC 65 [*Vavilov*] at paras 16-17) and that the merits of the Decisions are reviewable on a standard of reasonableness (*Vavilov* at paras 10, 23-25; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39–44; *Aryan* at para 16).

[20] The reasonableness standard "requires that a reviewing court defer" to a decision that is based on "an internally coherent and rational chain of analysis" and be "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at paras 85 and 99). In assessing whether a decision is reasonable, the Court will examine the reasons given by the administrative decision maker and will assess whether the decision is appropriately justified, transparent and intelligible. Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[21] Such a review must include a rigorous and robust evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a "reasons first" approach and begin its inquiry by examining the reasons provided with "respectful attention", seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Vavilov* at para 84).

[22] In that case, a court applying the reasonableness standard does not ask what decision it would have made in place of the administrative decision maker. It is "an approach meant to ensure that courts intervene in administrative matters only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process. It finds its starting point in the principle of judicial restraint and demonstrates a respect for the distinct role of administrative decision makers" (*Vavilov* at para 13).

[23] The decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. "The

reviewing court must refrain from reweighing and reassessing the evidence considered by the decision maker" (*Vavilov* at para 125).

[24] Turning to breaches of procedural fairness in administrative contexts, as mentioned above, they are considered reviewable on the standard of correctness or subject to a "reviewing exercise … 'best reflected in the correctness standard' even though, strictly speaking, no standard of review is being applied" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*Canadian Pacific*]). The duty of procedural fairness "is 'eminently variable', inherently flexible and context-specific"; it must be determined with reference to all of the circumstances, including the non-exhaustive list of factors stated in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at paragraphs 22 and 23 (*Vavilov* at para 77). In sum, the focus of the reviewing court is whether the process was fair. In the words of the Federal Court of Appeal, the ultimate or fundamental questions are:

> [56] No matter how much deference is accorded administrative tribunals in the exercise of their discretion to make procedural choices, the ultimate question remains **whether the applicant knew the case to meet and had a full and fair chance to respond**. It would be problematic if an *a priori* decision as to whether the standard of review is correctness or reasonableness generated a different answer to what is a singular question that is fundamental to the concept of justice—**was the party given a right to be heard and the opportunity to know the case against them?** Procedural fairness is not sacrificed on the altar of deference.
>
> (*Canadian Pacific* at para 56, emphasis added).

VI. Analysis

A. *The Fourth Reviewer did not breach the Applicant's right to procedural fairness*

[25] Ultimately, the question of procedural fairness comes down to whether the Applicant knew the case to be met and had a full and fair chance to respond (*Canadian Pacific* at para 56).

[26] While the Respondent has conceded procedural defects in prior decisions of the CRA, I find no procedural defect in the Fourth Reviewer's Decisions or decision-making process, which are the ones under review.

[27] The Applicant submits that she followed the direction on CRA's website and read the rules, but CRA failed to mention that income from Box 28 of a T4A slip was not valid, until after the Applicant mentioned it in a phone conversation in May 2023. This phone conversation pre-dates the date this matter was before the Fourth Reviewer. I agree with the Respondent who submits that a prior breach of procedural fairness is not a basis for relief in the present application and that a fresh review by a different officer, the Fourth Reviewer, can cure prior procedural defects.

[28] The Applicant further submits that CRA has never tried to help or hear their concerns over the T4A on file, did not want to receive proof of employment, and should have informed her that her JCP income could have been reported on a T4E "Statement of Employment Insurance and Other Benefits" at Box 17, rather than a T4A. The Respondent counters that the CRA is not required to provide an applicant with a preliminary analysis of whether a particular payment

qualified as income from employment, nor was it obliged to advise of alternative ways their income could have been reported. In my view, the Respondent is correct and rely on *Sun v Canada (Attorney General)*, 2023 FC 1225 to find no basis in the Applicant's submissions to argue that the CRA officers' duty of procedural fairness includes a duty to provide legal or tax advice:

> [42] Procedural fairness requires the CRA to ensure that the Applicant knows the case to meet and has the opportunity to respond. The duty of procedural fairness does not require the CRA to provide legal or tax advice to taxpayers. The Applicant spoke with the Agent, at length, prior to the second review decision and was given an opportunity to submit additional information and documents. In such circumstances, I am satisfied that the Applicant knew the case to meet and had a full and fair chance to respond thereto.

[29] I also agree with the Respondent that the Applicant misreads the Fourth Reviewer's Decisions. In my reading of the passages of the notes in the T1Case notepad reproduced below, the Fourth Reviewer did not rely on the particular form or in the particular box the income was reported in making its determination:

> **The letter also states that these earnings were living support and not a fee service that could have been entered into box 48,** the initiatives provides eligible Clients with needed work experience and skill enhancement while also benefiting the community and local economy and that the primary objective and focus mut be on helping Clients gain meaningful, recent work experience that will support them in achieving Sustainable Employment.
>
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> **Benefit Recipient was paid $2248 as living support which confirms why it was declared in box 028,** the amount earned does not come from an employment, but from a living support provided by the program Benefit Recipient was registered to and in order to have an eligible income, the amount received must come from an employment, self-employment or allowances, money or

> other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption.
>
> [Emphasis added]

[30] While the Fourth Reviewer noted the evidence *confirmed* the reason the JCP income was reported as other income, the way it was reported was not a factor in the Fourth Reviewer's Decisions. In my view, the Applicant's eligibility was not denied because her JCP income was reported in a particular box or on a particular form.

[31] The Applicant also alleges that the CRA was biased against her, which is the same allegation that was tested in her previous application for judicial review in *Fournier*, where Justice Southcott found "no bias or reasonable apprehension of bias on the part of the Officer" at paragraph 39. In this judicial review, I note the Applicant argues that the Fourth Reviewer did not want to listen to the Applicant during phone conversations that were already strenuous to the Applicant, and that could have been helpful for the file review, which resulted in them recording false information and using that information to make their decision and making up a reason to deny the Applicant's eligibility. While I am conscious that having to go through the judicial review process has demanded a lot of energy and time for the Applicant, the record before this Court does not support the Applicant's argument that the Fourth Reviewer made up a reason to deny the Applicant's eligibility by recording false information and using it to make their Decisions. The Fourth Reviewer relied, in large part, on the documentation provided by the Applicant (i.e. the letter of Ms. Payne) in making its Decisions. The Applicant has failed to establish any bias or reasonable apprehension of bias on the part of the Fourth Reviewer.

[32] The Applicant has also failed to establish any procedural fairness argument. From the record, the Applicant spoke with the Fourth Reviewer and was given an opportunity to submit additional information, documents and submissions. It is also clear that the Fourth Reviewer was open to the possibility that the Applicant's JCP income had been misreported as other income, but it was the Applicant's own evidence that confirmed it was correctly reported. In such circumstances, I am satisfied that the Applicant knew the case to meet and had a full and fair chance to respond and to make her case before the Fourth Reviewer.

B. *The Fourth Reviewer's Decisions concluding the payments received by the Applicant through the JCP weren't income from employment were not unreasonable*

[33] First, the Applicant argues that she met the $5,000 income threshold and that her JCP income contributed to meeting this requirement. At the hearing, the Applicant provided definitions of employment and work from the *Oxford Dictionary*, namely "a paid position of regular employment, a task, or a piece of work, especially one that is paid" and argued that it was "a living allowance" and that she "was offered an employment opportunity from an Employment office". The Applicant also pointed to the letter of Ms. Payne that referenced "employment income". The Respondent takes the position that the Fourth Reviewer considered the evidence regarding the nature of the JCP program and the letter from Ms. Payne, as it described the JCP initiative as a "work experience/training program" and characterized the income received by the Applicant as a "financial support" or "living support", which was the basis for its Decisions. The relevant excerpts of the Fourth Reviewer's Decisions are reproduced hereinafter:

> Benefit Recipient has sent a letter which states that the amount she received from April 23, 2019 to May 17, 2019 are **not from an employment but a financial support**, **as BR participated in the project JCP (Job Creation Partnership)**.

> The letter also states that **these earnings were living support** and **not a fee service** that could have been entered into box 48**, the initiatives provides eligible Clients with needed work experience and skill enhancement** while also benefiting the community and local economy and that **the primary objective and focus must be on helping Clients gain meaningful, recent work experience that will support them in achieving Sustainable Employment**.
>
> To conclude, the letter states that the participants are in **a work experience/trainings program**, **and receiving negotiated financial support (living allowance)**, which **does not pay into EI insurable hours or CPP**. The letter sent is signed by Amy Payne who is an Employment Counsellor at Nakusp Work BC Centre.
>
> [Emphasis added]

[34] The Fourth Reviewer considered the evidence submitted by the Applicant on the nature of the JCP program and reasonably found the amounts received are not from employment but were a financial support (living allowance) where the Applicant received needed work experience and skill enhancement, and reasonably noted that it does not pay into employment insurable hours or CPP. Applicants bear the burden of establishing their eligibility (*Ntuer v Canada (Attorney General)*, 2022 FC 1596 at para 26). The Fourth Reviewer was not required to independently research the JCP (*Loeb v Canada (Attorney General)*, 2023 FC 1463 at para 7) and it was open to the Fourth Reviewer to render its conclusions above from the letter of Ms. Payne, and to draw a distinction between financial support and employment income. While Ms. Payne refers to "employment income" in her letter, I agree with the Respondent that it is not determinative as it was for the Fourth Reviewer to decide whether the question of financial support (living allowance) explained by Ms. Payne qualified as income from employment for the purposes of the CERB Act and the CRB Act.

[35] Next, the Applicant relies on section 26 and subsection 59(d) of the *Employment Insurance Act*, SC 1996, c 23 [*Employment Insurance Act*] to deem her JCP income to be from employment, arguing that employment support measures such as partnerships related to helping workers to prepare for employment and to be productive participants in the labour market are earnings from employment. To counter this argument, the Respondent cited *Konlambigue v Canada (Attorney General)*, 2022 FC 1781 [*Konlambigue*] where, in the context of the CRB Act, Justice Pamel (as he then was) held that the word "income" does not necessarily carry the same meaning under the CRB Act as it does under the *Income Tax Act*, RSC 1985, c 1 (5th Supp) (*Konlambigue* at para 23). In addition, the Respondent set out that, to be eligible to the CERB and CRB benefits, the definition of "worker" at section 2 of the CERB Act and subsection 3(1)(d) of the CRB Act provide the list of prescribed sources of income for eligibility to the CERB and CRB benefits respectively as follows:

CERB Act	CRB Act
Definitions **2** The following definitions apply in this Act. […] *worker* means a person who is at least 15 years of age, who is resident in Canada and who, for 2019 or in the 12-month period preceding the day on which they make an application under section 5, has a total **income of at least $5,000** — or, if another amount is fixed by regulation, of at least that amount — **from the following sources:** **(a) employment;** **(b) self-employment;** **(c) benefits paid to the person under any of subsection 22(1),**	**Eligibility** **3 (1)** A person is eligible for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021 if […] (d) in the case of an application made under section 4 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 from the following sources:** **(i) employment;** **(ii) self-employment;**

CERB Act	CRB Act
23(1), 152.04(1) and 152.05(1) of the *Employment Insurance Act*; **(d) allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption.** [Emphasis added]	**(iii) benefits paid to the person under any of subsection 22(1), 23(1), 152.04(1) and 152.05(1) of the *Employment Insurance Act;*** **(iv) allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption,** and **(v) any other source of income that is prescribed by regulation;** […] [Emphasis added]

[36] The Fourth Reviewer considered the Applicant's argument on the applicability of section 26 and subsection 59(d) of the *Employment Insurance Act* in its Decisions when it stated:

> Benefit Recipient has also sent the Employment Insurance Act articles 26 and 59d, however this law cannot be applied in this situation, as Service Canada uses this law to guarantee that Canadian workers fulfill EI criteria and eligibility.
>
> **For CERB eligibility, the law and requirements that are used to base the decision are separate from the Employment Insurance Act.**
>
> **CERB has its own criteria and law based implications and articles, hence the Employment Insurance Act does not have any grounds in the application of CERB on the reasons of denial or approval unless a worker has paid benefits under any of subsections 22(1), 23(1), 152.04(1) and 152.05(1) of the Employment Insurance Act.**

> Benefit Recipient was paid $2248 as living support which confirms why it was declared in box 028, **the amount earned does not come from an employment, but from a living support provided by the program** Benefit Recipient was registered to and **in order to have an eligible income, the amount received must come from an employment, self-employment or allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption.**
>
> [Emphasis added]

[37] From the record, the Fourth Reviewer applied the eligibility criteria in the prescribed sources of income referenced in the CERB Act and CRB Act and considered the entire evidentiary record in its determination that the Applicant was not eligible for the CERB and CRB benefits. Upon reading the Fourth Reviewer's notes and Decisions, I find the Fourth Reviewer's conclusion that the amount earned from JCP did not come from an employment, but from a living support provided by the JCP program was not unreasonable.

[38] The Applicant has not discharged its burden to demonstrate that there are sufficiently serious shortcomings in the Decisions such that they cannot be said to exhibit the requisite degree of justification, transparency and intelligibility (*Vavilov* at para 100).

VII. Conclusion

[39] After a review of the CERB Act and the CRB Act and the admissible documents in the record, and after considering the arguments of both parties, I find, for all the foregoing reasons, that the Decisions are not unreasonable and that they were not arrived at in a procedurally unfair manner. The application for judicial review is dismissed.

[40] No award for costs was sought by the Respondent and, in my discretion, none should be granted.

JUDGMENT in T-2501-24

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed without costs.

"Ekaterina Tsimberis"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2501-24
STYLE OF CAUSE:	MARIE-ISABELLE FOURNIER v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	MAY 1, 2025
JUDGMENT AND REASONS:	TSIMBERIS J.
DATED:	MAY 22, 2025

APPEARANCES:

Marie-Isabelle Fournier	FOR THE APPLICANT ON HER OWN BEHALF
Benjamin Roizes	FOR THE RESPONDENT

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