

Federal Court



Cour fédérale

Date: 20250527

Docket: T-233-24

Citation: 2025 FC 956

Ottawa, Ontario, May 27, 2025

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

QIANWEN YU

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Qianwen Yu, applied for and received the Canada Emergency Response Benefit (“CERB”) for seven four-week periods from May 10, 2020 until September 26, 2020, and the Canada Recovery Benefit (“CRB”) for fourteen two-week periods from September 27, 2020 to April 10, 2021 and for eight two week-periods from June 20, 2021 to October 23, 2021.

[2] The Canada Revenue Agency (“CRA”) conducted a validation review in 2023 and found that Ms. Yu was ineligible for both the CERB and the CRB she had already received. Ms. Yu was consequently required to repay these amounts.

[3] The CRA found that Ms. Yu was not eligible for either benefit because she did not meet the minimum income threshold, namely: she did not earn at least \$5000 in 2019, 2020 or in the 12 months before her first application of either benefit (*Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8, section 6 [CERB Act] and *Canada Recovery Benefits Act*, SC 2020 c 12, s 2, section 3 [CRB Act]).

[4] Ms. Yu argues that the CRA’s decision was both unreasonable and unfair. She argues that she met the income threshold but that, due to a language barrier, she could not communicate with the CRA, and that the CRA did not provide reasons for their decision.

[5] I do not agree. I find that during the course of the two reviews conducted by the CRA: i) Ms. Yu knew the case to meet and was provided adequate opportunity to respond to the CRA’s concerns; ii) the CRA provided reasons in their two refusal letters as well in their notes to file; and iii) Ms. Yu has not established any sufficiently serious shortcoming in the CRA’s analysis of her eligibility based on the documents that were before the CRA.

II. Procedural History

[6] Validation attempts began in February 2023. The CRA was able to speak to Ms. Yu in March 2023. At that time, she asked that her husband be allowed to speak on her behalf because

of her limited English language ability. This request was granted. The notes from the CRA's March 2023 call indicate that the Applicant's spouse confirmed that she met the income threshold through earnings related to a business to book travel for Chinese nationals visiting Canada. This business was suspended in 2020 because of the COVID-19 travel restrictions.

[7] The first review officer ("First Reviewer") noted that Ms. Yu provided documents that show various transactions in 2019 and 2020, highlighting those that were relevant, but flagged that the text of these documents was in Chinese. The officer also noted that her tax returns filed for 2019 stated that she had a gross business income of \$5500 and a net business income of \$4340; in 2020 she reported a gross business income of \$2600, with a net business income of \$2130.

[8] The First Reviewer found Ms. Yu did not meet the minimum threshold requirement, finding the documents provided were not sufficient to confirm self-employment earnings amounting to \$5000.00. A letter, dated April 5, 2023, was sent to Ms. Yu.

[9] Ms. Yu asked for a second review of her eligibility. In her letter requesting a further review, Ms. Yu explained that she had already provided all the relevant records relating to her income of \$5500 in 2019 and \$2600 in 2020. Ms. Yu noted that she was concerned that there was a misunderstanding of the materials as much of it was presented in Chinese, and further there were communication barriers with the reviewer. Ms. Yu asked, "if possible, could you arrange for someone who speaks Mandarin to contact me? I believe this would facilitate better

communication and mutual understanding of each other's statements." Ms. Yu also provided a revised master summary of the data.

[10] The second review officer ("Second Reviewer") attempted to contact Ms. Yu in November 2023. They were able to reach her on December 8, 2023. On this call, Ms. Yu asked if her husband could speak to the officer due to her limited English. Ms. Yu authorized her husband to speak on her behalf.

[11] The notes of the Second Reviewer indicate that a detailed conversation took place during that call regarding the nature of Ms. Yu's business. The Officer noted that during this call they made a number of requests for further documents to be provided by January 4, 2024, including: that the documents that had been provided in Chinese be provided in English, that Ms. Yu provide bank statements that reference her name and not only her husband's name, and that Ms. Yu provide corresponding bank statements and emails from clients relating to the self-employment income in 2019.

[12] On December 18, 2023, Ms. Yu sent further documents. Again, a number of the documents were in Chinese and had no translation. The bank statements did not reference Ms. Yu, and only referenced her husband.

[13] The Second Reviewer found, as recorded in their notes, Ms. Yu ineligible because of the lack of sufficient evidence to establish that she had self-employment earnings to meet the

minimum income required prior to receiving the CRB and the CERB. The Second Reviewer found:

Most of the documents that [Ms. Yu] sent are in Chinese which cannot be interpreted. The documents that are in English have [Ms. Yu's] spouse's name on them instead of [Ms. Yu's] name except pay stubs from "Top Design Group Inc."

...

The invoices and bank statements have only [Ms. Yu's] spouse's name.

[14] The Second Reviewer explained that the documents that had been requested on the call were not provided. They also found that the income from Top Design Group was earned after Ms. Yu's first applications for the CERB and the CRB, and therefore could be used to meet the minimum income threshold and, in any case, the earnings were well below the \$5000 threshold. The refusal decision, dated January 4, 2024, was sent to Ms. Yu.

III. Analysis

[15] Ms. Yu challenges the process followed in validating her eligibility and the substance of the decision itself. With respect to the substance of the decision, I will apply a reasonableness standard of review. On the procedural question, the question I need to ask is whether the procedure was fair in all the circumstances (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35).

[16] Ms. Yu argues that it was unfair for the CRA to find her ineligible because of communication issues due to a language barrier. In particular, Ms. Yu points to a letter she wrote to the CRA, following the first refusal of her eligibility, asking for a second review. In this letter, she requested: “if possible, could you arrange for someone who speaks Mandarin to contact me?”.

[17] When the Second Reviewer called, Ms. Yu authorized her husband to speak on her behalf because of a language barrier. The notes of the Second Reviewer set out a detailed conversation about the nature of Ms. Yu’s business and the documents already provided to the CRA. The notes also set out the Second Reviewer’s requests for further documents and a deadline to provide these documents. There is no indication in the Second Reviewer’s notes that there was a difficulty in communicating with Ms. Yu’s husband.

[18] On judicial review, Ms. Yu has not provided affidavit evidence from her husband or herself about the call with the Second Reviewer. Nor does Ms. Yu dispute the Second Reviewer’s summary of the call with her husband, including the detailed explanation about the business at issue and the request for further documents.

[19] In Ms. Yu’s submissions to the Court, she references “the reviewer’s strong accents” as making it “impossible for both parties to understand what each other expressed during the communication process.” The difficulty is that Ms. Yu has not disputed the information contained in the detailed notes of the Second Reviewer. Ms. Yu has not identified any specific miscommunication that occurred during the call. Nor did Ms. Yu or her husband communicate

with the CRA after the call to indicate that they could not understand the Second Reviewer or that they needed an interpreter.

[20] In these circumstances, given the detailed notes of the Second Reviewer, the lack of evidence provided by Ms. Yu about the call with the Second Reviewer, and the First Reviewer's refusal decision indicating the minimum threshold requirement was the source of the ineligibility, I cannot find that Ms. Yu did not know the case to meet or that she was not provided with a meaningful opportunity to respond. Accordingly, I do not find that a procedural fairness breach has been established.

[21] Ms. Yu also argued it was unfair that the CRA never explained in their refusal letters the reason she was found ineligible. The refusal letters indicate that Ms. Yu "did not earn at least \$5000" in the relevant time period as set out as an eligibility requirement in the legislation. In other words, the refusal letters set out the eligibility requirement she failed to meet. Moreover, the notes of the First Reviewer and the Second Reviewer also constitute the reasons for their decisions (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 22). In the Second Reviewer's notes there is a detailed explanation as to how the documents provided were insufficient to establish the minimum income requirement was met.

[22] With respect to the merits of the decision, Ms. Yu reiterates that in her view she had demonstrated that she met the minimum income requirement based on the documents she had provided the CRA. She does not, however, dispute the CRA's concerns with the evidence

provided – that much of it was in her husband’s name and in the Chinese language without a translation provided.

[23] Ultimately, Ms. Yu’s arguments on judicial review have not raised any sufficiently serious shortcoming to warrant the Court’s intervention. Instead, the arguments amount to asking the Court to reweigh the evidence which is not the Court’s role on judicial review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 125).

[24] The Respondent indicated at the hearing that they were no longer seeking costs in this matter. I agree that this is appropriate and decline to award costs.

JUDGMENT in T-233-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and
2. No costs are ordered.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-233-24

STYLE OF CAUSE: QIANWEN YU v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: NOVEMBER 18, 2024

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: MAY 27, 2025

APPEARANCES:

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FOR THE APPLICANT
ON HER OWN BEHALF

Jessica Ko

FOR THE RESPONDENT

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