Federal Court | Cour fédérale

Date: 20250627

Docket: T-3144-24

Citation: 2025 FC 1113

Ottawa, Ontario, June 27, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

HUICHAI LI

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of a Canada Revenue Agency ("CRA") decision denying the Applicant, Huichai Li, the Canada Recovery Benefit ("CRB").

[2] For the reasons that follow, the application is dismissed.

II. Background

[3] Since 2019, the Applicant has run a homestay business in Canada. Her business was impacted by the COVID-19 crisis from 2020 to 2022. The Applicant applied for, and received the CRB between September 27, 2020, and March 27, 2021 (the "Relevant Period").

[4] In April 2023, the CRA began its first review of the Applicant's CRB applications. The Applicant provided the CRA with receipts and statements on her business income through her CRA MyAccount.

[5] By decision letter dated November 9, 2023, the Applicant was advised she was not eligible for CRB during the Relevant Period because she had not earned over $5,000 in net self-employment income in 2019, 2020, or in the 12 months before the date she applied for the CRB.

[6] On November 20, 2023, the Applicant requested a second review of eligibility and provided additional documents including income recalculations for 2019 and 2020, general release waivers from the parents of children she was caring for, and copies of receipts.

[7] On November 27, 2023, the Applicant provided additional submissions to the CRA, several of which were included in her letter of November 20, 2023.

[8] A CRA agent engaged in the second review (the "Second Reviewer") communicated with the Applicant between September 18, 2024 and October 23, 2024. The Applicant provided further additional submissions during this time, which included a letter and bank statements.

[9] The Applicant's T1 reported that she had earned the following gross and net self-employment income in 2019, 2020, and 2021:

A. 2019: $10,000 (gross business income) and $4,581 (net self-employment income)

B. 2020: $1,250 (gross business income) and -$711 (net self-employment income)

C. 2021: no gross business income reported and -$643 (net self-employment income)

III. The Decision

[10] By letter dated October 25, 2024, the CRA notified the Applicant that she was ineligible for the CRB as she did not demonstrate she earned at least $5,000 in net self-employment income or employment income in 2019, 2020, or in the 12 months before the date of her application for the CRB.

[11] The Global Case Management System ("GCMS") notes, which form part of the Decision, explain that the Applicant's documents established that she earned a total of $10,000 of gross self-employment income in 2019, but that the Second Reviewer was unable to determine if the Applicant earned over $5,000 in net self-employment income in 2019, as there were no

documents submitted for expenses. The Applicant did not report over $5,000 in their 2019 tax return.

IV. Issues

[12] The two issues are:

A. Was the Applicant afforded procedural fairness?

B. Was the Decision reasonable?

V. Analysis

A. *Preliminary Matters*

[13] First, the Applicant has named the incorrect respondent in this matter. The proper respondent is the Attorney General of Canada, as the Applicant is challenging a decision made by an officer of the CRA on behalf of the Minister of Employment and Social Development (*Federal Courts Rules*, SOR/98-106 [Rules], rule 303; *Kleiman v Canada (Attorney General)*, 2022 FC 762 at para 10).

[14] The style of clause is hereby amended from Huichai Li v Bradley D / Canada Revenue Agency to Huichai Li v Attorney General of Canada.

[15] Second, in the Affidavit of Bradley Duffy, the Second Reviewer, he states that some of the documents attached to the Applicant's affidavit sworn on November 28, 2024, including re-

assessments for 2019, 2020, 2021, 2022, and 2023, and explanation letters regarding her business income for 2019 and 2020, were not made available to him during his review.

[16] As a general rule, and absent exceptional circumstances, the evidentiary record before this Court on judicial review is restricted to the evidentiary record that was before the administrative decision maker (*Ganesh v Canada (Attorney General)*, 2023 FC 1405 at paras 17-19, citing *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 19-20). However, as the Respondent did not raise any objection to the Applicant's Record, I have reviewed and considered these documents. Nevertheless, I do not find these documents materially impact the reasonableness assessment.

B. *Standard of Review*

[17] The standard of review with respect to the Officer's substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 25). The standard of review with respect to the Applicant's procedural rights is correctness or a standard with the same import (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 34-35 and 54-55, citing *Mission Institution v Khela*, 2014 SCC 24 at para 79).

C. *The Applicant's Right to Procedural Fairness Was Not Violated*

[18] The Applicant argues that the Decision was based on incomplete data and alleges that the Second Reviewer neither reviewed nor took into account the documents she submitted on November 20, 2023, November 27, 2023, and September 26, 2024.

[19] There was no breach of procedural fairness as the Applicant knew the case to meet and was given the opportunity to be heard. The GCMS notes demonstrate that the Second Reviewer reviewed and considered the submitted documents in making their Decision. The Applicant also spoke to the Second Reviewer on multiple occasions and was provided the opportunity to make her case that she earned over $5,000 in 2019, 2020 or in the 12 months before the date she applied for the CRB.

D. *The Decision Was Reasonable*

[20] In requesting a second review of her eligibility for CRB, the Applicant stated that some of her business income was not included in her income tax returns by mistake and provided revised calculations. In her revised calculations, the Applicant included amounts that were received in the form of security deposits and emergency funds set up by the parents of children she cared for at her homestay. The Applicant asserts that based on these revised calculations, she has met her burden of establishing that she made more than $5,000 in net self-employment income in 2019.

[21] It was reasonable for the Second Reviewer to not consider the security deposits and emergency funds as income, as they were intended to be refunded to the parents if not used, as explained by the Applicant during a phone call with the Second Reviewer. It was also reasonable for the Second Reviewer to rely upon the Applicant's net self-employment income as filed since the Applicant's submitted documents only showed gross income (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 32). The Second Reviewer requested additional documentation to establish a net self-employment income of $5,000. By failing to do so, the Applicant failed to meet their burden of proving that she was entitled to the benefits (*Walker v Canada (Attorney General)*, 2022 FC 381 at paras 33- 35). While unfortunate, there is an obligation to meet the necessary requirement to prove the $5,000 income.

[22] For these reasons, the Decision was reasonable.

VI. Conclusion

[23] This application for judicial review is dismissed.

[24] The Respondent has not sought costs and accordingly, no costs will be awarded.

<u>JUDGMENT in T-3144-24</u>

THIS COURT'S JUDGMENT is that:

1. This application is dismissed.

2. No costs are awarded.

"Michael D. Manson"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-3144-24
STYLE OF CAUSE:	HUICHAI LI v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JUNE 12, 2025
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DATED:	JUNE 27, 2025

APPEARANCES:

Huichai Li	FOR THE APPLICANT (ON HER OWN BEHALF)
Kegan Chang	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT