

Federal Court



Cour fédérale

Date: 20230718

Docket: T-936-22

Citation: 2023 FC 975

Vancouver, Ontario, July 18, 2023

PRESENT: Madam Justice Walker

BETWEEN:

TYLER PEARSON

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr. Tyler Pearson, the Applicant, worked at a supermarket from September 2019 until his voluntary resignation in September 2020. He completed his last shift on September 10, 2020 and was unemployed until the spring of 2021.

[2] Mr. Pearson applied for the Canada Recovery Benefit (CRB) for seven two-week periods between September 27, 2020 and February 27, 2021. The Canada Revenue Agency (CRA) initially accepted Mr. Pearson's claims for the first six periods without review.

[3] The CRB was part of a package of benefits put in place by the Government of Canada in response to the COVID-19 pandemic. The CRB was introduced by the *Canada Recovery Benefits Act, SC 2020, c 12, s 12 (CRBA)* and provided financial support to eligible Canadian residents affected by the pandemic for two-week periods between September 27, 2020 and October 23, 2021 (*CRBA*, sections 2-4). Section 3 of the *CRBA* set out eligibility requirements for the CRB. At issue in this case is the requirement that a taxpayer must show that, for reasons related to COVID-19, either: (1) they were not working during each two-week period claimed, or (2) they experienced a 50% reduction in their average weekly employment income for the two-week period claimed compared to that of the previous year or the 12-month period preceding the application (*CRBA*, para 3(1)(f)).

[4] In March 2021, the CRA began a review of Mr. Pearson's eligibility for the CRB. On February 7, 2022, a first CRB review officer called Mr. Pearson to discuss his employment situation. Mr. Pearson stated that, when COVID-19 restrictions began, his hours at the supermarket were reduced and he left his job in September 2020 to look for other work. In a first review decision dated February 14, 2022, the review officer concluded that Mr. Pearson was ineligible for the CRB because he had resigned his job voluntarily.

[5] Mr. Pearson requested a second review of his CRB eligibility. In his request materials, Mr. Pearson confirmed he had formally resigned from his job at the supermarket in August 2020 and that his last day of work was September 10, 2020. He stated that the date fell within the eligibility requirements for the CRB because he stopped work before CRB benefits were first available on September 27, 2020.

[6] On April 5, 2022, a second CRB review officer (the Second Officer) called Mr. Pearson. Mr. Pearson confirmed his resignation from the supermarket and restated his position that he was eligible for CRB because he had left his job before September 27, 2020.

[7] On April 7, 2022, the Second Officer issued the decision under review (the Decision) concluding that Mr. Pearson was ineligible to receive the CRB because:

- (1) he was not working for reasons unrelated to COVID-19; and
- (2) he did not experience a 50% reduction in his average weekly employment income compared to the previous year due to COVID-19.

II. Analysis

[8] The sole issue before the Court is whether the Decision finding Mr. Pearson ineligible for the CRB was reasonable (*Aryan v Canada (Attorney General)*, 2022 FC 139 at para 16; *Crook v Canada (Attorney General)*, 2022 FC 1670 at para 4; each applying *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23).

[9] While I understand Mr. Pearson's submissions and sympathize with his position, I cannot conclude that the Decision was unreasonable.

[10] The Second Officer's conclusion of ineligibility is clearly explained and is justified by the evidence in the record. The Second Officer reasonably concluded that Mr. Pearson was not unemployed and did not experience a reduction of at least 50% in his average weekly employment income relative to the same average income for the relevant prior periods, "*for reasons related to COVID-19*" (CRBA, para 3(1)(f)).

[11] Mr. Pearson chose to leave his employment in August 2020 and ceased working in September 2020. He remained unemployed through the seven CRB periods in question until the spring of 2021. Mr. Pearson did not submit evidence supporting any link between his stated reduction in hours in the weeks immediately before his last shift on September 10, 2020 and COVID-19. In addition, Mr. Pearson's record of work from the supermarket shows some weeks of reduced hours but other weeks are consistent with the fluctuations that appear throughout his period of employment. Mr. Pearson's voluntary decision to leave his employment to seek work elsewhere is not itself sufficient to link his unemployment with the workplace fallout of COVID-19.

[12] Further, I agree with the Respondent that Mr. Pearson's decision to stop work cannot intentionally or unintentionally circumvent the 50% CRB criterion even where that decision predates the first CRB payment period. Mr. Pearson's decision to stop work in September 2020 resulted in his income dropping to nil during the periods for which he claimed CRB, effectively a

reduction of 100% of his average weekly income of the previous year. However, the eligibility requirements set out in subsection 3(1) of the *CRBA* are cumulative. In other words, a CRB claimant must satisfy each of the requirements applicable to them. In this case, the fact that Mr. Pearson resigned his job before September 27, 2020 and the possible relevance of paragraphs 3(1)(k) and (l) to his situation does not result in an unreasonable Decision because it does not cure his non-compliance with paragraph 3(1)(f) of the *CRBA*.

[13] Similarly, Mr. Pearson submits that his efforts to find employment fall within the CRA's criteria on reasonable job searches. However, the Second Officer did not find Mr. Pearson ineligible for the CRB based on any lack of effort in seeking new employment (*CRBA*, paragraph 3(1)(i)). The Decision is grounded only on Mr. Pearson's failure to meet the criteria set out in paragraph 3(1)(f).

III. Conclusion

[14] For these reasons, Mr. Pearson's application for judicial review is dismissed

[15] Prior to the hearing of this matter, the parties agreed that the unsuccessful party would pay costs in a lump sum amount of \$500.00 to the successful party. I have considered the parties' agreement but in the exercise of my discretion and in the circumstances of this case, I will order payment of \$250.00 to the Respondent as costs.

JUDGMENT IN T-936-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. Mr. Pearson will pay to the Respondent a lump sum of \$250.00 (all inclusive) in costs.

"Elizabeth Walker"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-936-22

STYLE OF CAUSE: TYLER PEARSON v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: JULY 5, 2023

JUDGMENT AND REASONS: WALKER J.

DATED: JULY 18, 2023

APPEARANCES:

Tyler Pearson

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Me Alice Zhao Jiang

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Montréal, Quebec

FOR THE RESPONDENT