

Federal Court



Cour fédérale

Date: 20231027

**Dockets: T-2175-22
T-2176-22
T-2177-22**

Citation: 2023 FC 1433

Ottawa, Ontario, October 27, 2023

PRESENT: The Honourable Madam Justice Elliott

BETWEEN:

JING YOU

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Jing You, applied for the Canada Recovery Benefit [CRB] for the periods between September 27, 2020 and October 9, 2021. The Canada Revenue Agency [CRA] reviewed the Applicant's applications and by letter, dated October 3, 2022 informed her that she was not eligible for the CRB as she had not earned at least \$5,000 (before taxes) of employment

or net self-employment income in 2019, 2020, or in the 12 months before the date of her first application.

[2] For the reasons that follow, this application for judicial review is dismissed.

II. **Background**

[3] The Applicant applied for the CRB for the periods between September 27, 2020 and October 9, 2021.

[4] On January 20, 2022, the CRA began the process to validate the Applicant's CRB applications.

[5] The Applicant was notified of the decision that she was not eligible for the CRB by letter dated July 14, 2022.

[6] The July 14, 2022 CRB decision letter notified the Applicant that if she disagreed with this decision, she could request a second review within 30 days of the date of the letter.

[7] On July 18, 2022, the CRA Agent spoke with the Applicant's husband, having received a one-time authorization from the Applicant. During the call, the CRA agent explained that the Applicant needed to prove her income was over \$5,000 and that the Applicant had been reassessed because her net business income was \$2,523.00 instead of the \$8,654.00 reported. The

Applicant's husband advised the CRA Agent that the Applicant could not prove that her net business income was over \$5,000 as she received payments in cash and by email money transfer.

[8] On July 20, 2022, the Applicant provided her December 2019 bank statement to CRA, showing ATM and EMT deposits but with no supporting documents explaining from whom or from where the deposits or transfers were received.

[9] The CRA initiated a second review of the Applicant's file after receiving the Applicant's bank statement.

[10] The result of the second review of the CRB decision was communicated to the Applicant by letter dated October 3, 2022.

III. **Decision under Review**

[11] Based on the second review of the Applicant's CRB application, the CRA notified the Applicant by letter dated October 3, 2022 that she was not eligible.

[12] The CRA determined that the Applicant was ineligible because she did not earn at least \$5,000 (before taxes) of employment or net self-employment income in 2019, 2020, or in the 12 months before the date of her first application [the Decision].

[13] The CRA noted that the Applicant will be denied any future CRB applications, as she did not meet the eligibility criteria to qualify for CRB, unless she can provide proof that she is able to satisfy the eligibility criteria.

[14] The CRA further noted that if the Applicant received a payment that she was not eligible for, she would be required to repay the amount.

IV. **Issues and Standard of Review**

[15] The sole issue in this application for judicial review is whether the CRA Agent's decision finding the Applicant ineligible for the CRB was reasonable. This Court has confirmed that decisions on CRB eligibility are reviewable on the reasonableness standard: *Aryan v Canada (Attorney General)*, 2022 FC 139 at para 16; *Walker v Canada (Attorney General)*, 2022 FC 381 at para 15; each applying *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*].

[16] A reasonable decision is one that displays justification, transparency and intelligibility with a focus on the decision actually made, including the justification for it: *Vavilov* at para 15. Overall, a reasonable decision is one that is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrain the decision maker: *Vavilov* at para 85.

V. **Analysis**

[17] The eligibility requirements for the CRB are set out in section 3 of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 (the “*Act*”). Paragraphs 3(1)(d) and (e) of the *Act* provide that an applicant must have earned at least \$5,000 of net income in prescribed periods from prescribed categories of income. For a two-week period beginning in 2020, a minimum of \$5,000 had to have been earned in 2019 or in the 12-month period preceding the day on which the person applied for the CRB. For a two-week period beginning in 2021, a minimum of \$5,000 had to have been earned in 2019, in 2020, or in the 12-month period preceding the day on which the person applied for the CRB.

[18] Moreover, subsection 3(2) states that for the purposes of the income earned in the periods described in paragraphs 3(1)(d) and (e) “income from self-employment is revenue from the self-employment less expenses incurred to earn that revenue”.

[19] The CRA document titled “Confirming CERB, CRB, CRSB and CRCB Eligibility” (the “CRB Eligibility Document”) sets out the kind of proof acceptable to demonstrate a \$5,000 income. This includes invoices for services rendered, documentation for receipt of payment, a list of expenses to support the net result of earnings, and any other documentation that will substantiate \$5,000 in self-employment income.

[20] As stated in *Vavilov* at paragraphs 86 and 89, the Applicant bears the burden of showing that there are sufficiently serious shortcomings in the Decision such that it cannot be said to

exhibit the requisite degree of justification, transparency and intelligibility. I agree with the Respondent that the Applicant has not identified any such serious defects in the second review. Rather, the Applicant disagrees with the second reviewer's finding of fact that she did not meet the CRB Income requirements.

[21] The Applicant submits that the second reviewer rejected her offer to provide additional materials, such as her customer list (names and phone numbers). I disagree, as there is no indication that the second reviewer misapprehended or failed to account for the documents provided by the Applicant: *Vavilov* at para 126. The second reviewer carefully considered the Applicant's supporting documents. The decision that the Applicant did not meet the Income Requirement was justified and intelligible. The CRA Agent specifically noted that:

1. The Applicant did not have sufficient documentation to prove that she had at least \$5,000 of employment or self-employment in the 12 months before the date of her first application as the Applicant's documentation showed a net business income of \$2,523 and employment income of \$2,420 in 2019 and \$4,829 net business loss in 2020.
2. The Applicant provided to CRA her December 2019 bank statement showing ATM and EMT deposits with no supporting documents explaining from whom or from where the deposits or transfers were from.

[22] Taken as a whole, the Decision of the second reviewer bears all the hallmarks of reasonableness. The Court can "trace the decision maker's reasoning without encountering any fatal flaws in its overarching logic": *Vavilov* at para 102 and, it is justifiable "in light of the relevant legal and factual constraints that bear on it.": *Vavilov* at para 101.

VI. **Conclusion**

[23] For the reasons set out above, these applications for judicial review are dismissed, without costs.

JUDGMENT IN T-2175-22, T-2176-22, T-2177-22

THIS COURT'S JUDGMENT is that:

1. The applications for judicial review, T-2175-22, T-2176-22 and T-2177-22 are dismissed.
2. No costs are awarded.

"E. Susan Elliott"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: T-2175-22, T-2176-22, T-2177-22

STYLE OF CAUSE: JING YOU v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 7, 2023

JUDGMENT AND REASONS: ELLIOTT J.

DATED: OCTOBER 27, 2023

APPEARANCES:

Jing You
Lihui Ma

FOR THE APPLICANT

Princess Okechukwu

FOR THE RESPONDENT

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FOR THE RESPONDENT