

Federal Court



Cour fédérale

Date: 20250531

Docket: T-525-23

Citation: 2024 FC 827

Ottawa, Ontario, May 31, 2024

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

SUPRIYA DHIMAN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Supriya Dhiman (the Applicant) is a self-represented individual seeking judicial review of a decision of the Canada Revenue Agency (CRA), dated February 9, 2023, which found her inadmissible for the Canada Recovery Benefit (CRB). After completing a second review of her application, a CRA officer determined that the Applicant was ineligible for the CRB because she did not earn at least \$5,000 (before taxes) of employment or net self-employment income during the relevant period.

[2] The Respondent concedes that this decision was arrived at in a procedurally unfair manner. The Respondent asks this Court to allow the judicial review application, without costs, and remit this matter back to a different CRA officer for redetermination.

[3] However, the Applicant is asking the Court to provide directions to the CRA, while the Respondent's position is that the Court shouldn't issue any directions.

[4] For the reasons that follow, I find that this application for judicial review should be granted, with no directions given to the CRA.

I. Facts

[5] Since the Respondent agrees with allowing this application, it is not necessary to detail all the facts of this matter. However, I will mention the salient points, particularly those involving the second review.

[6] The Applicant applied for the CRB for 23 two-week periods spanning from October 11, 2020 to August 28, 2021.

[7] The CRA decided to validate the Applicant's eligibility. On November 21, 2022, the CRA informed the Applicant that she was ineligible.

[8] During a second review, the Applicant claimed that she earned at least \$5,000 before the date of her first application for the CRB. The Applicant also indicated that she did not

understand the eligibility requirements, given the requests for information took place over the phone, rather than in writing.

[9] On January 10, 2023, the Applicant provided additional submissions to the CRA.

[10] The second reviewer determined that the Applicant was ineligible for the CRB on the basis that she did not earn at least \$5,000 (before taxes) of employment income or net self-employment income in 2019, 2020, or in the 12 months preceding the date of her first application.

[11] While making this decision, the second reviewer attempted to contact the Applicant by telephone on January 16, 2023, January 17, 2023, and January 19, 2023. However, the Applicant could not be reached. At this time, the Applicant's representative, Cintac Business Services Inc. (Cintac), contacted the second reviewer, but the CRA refused to discuss the Applicant's file without the Applicant's verbal authorization.

[12] On February 9, 2023, the CRA notified the Applicant of the second decision, which found her ineligible for the CRB.

II. Issue

[13] Should the Court issue directions to the CRA for this matter?

III. Analysis

A. *Preliminary Issue*

[14] The Respondent indicates that the Applicant incorrectly named the CRA as the Respondent in this application, and the appropriate respondent should be the Attorney General of Canada. I agree with the Respondent and the style of cause should be amended to reflect the proper naming convention (see *Kleiman v Canada (Attorney General)*, 2022 FC 762 at paras 10-11).

B. *Procedural Fairness*

[15] The Respondent concedes that there was a breach of procedural fairness in this matter. I agree and I find that this issue is dispositive of the judicial review.

[16] However, in her written submissions, the Applicant sought the following relief:

9. My reason to proceed towards a judicial review is to ask the CRA why they had accepted my 2020, 2021 tax returns initially and then deciding my ineligibility and secondly, why they were preferring phone calls as a mode of communication instead of sending a formal letter to ask me the exact information they were looking from me.

[17] During the hearing, my reluctance to grant this unusual remedy was discussed.

[18] The jurisprudence shows that this form of relief is available in very limited circumstances. In *Ahmed v Canada (Citizenship and Immigration)*, 2022 FC 1496, Justice Heneghan stated that, “Directions from a Court, in disposing of an application for judicial review, are rare as discussed by the Federal Court of Appeal ...”

[19] In *Canada (Citizenship and Immigration) v Tennant*, 2019 FCA 206, the Court elaborated on the type of situation, stating that:

...It is now well-established that this form of relief, a combination of certiorari and mandamus, is available where on the facts and the law there is only one lawful response, or one reasonable conclusion, open to the administrative decision-maker, so that no useful purpose would be served if the decision-maker were to redetermine the matter.

[Citations omitted.]

[20] Based on the case law, I am not satisfied that directions to the CRA are necessary. I find that sending this matter back for redetermination by a different officer, where the Applicant can provide additional material, is the appropriate remedy in this circumstance.

[21] Therefore, I will grant this application and allow the Applicant to provide further material if necessary.

JUDGMENT in T-525-23

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to replace the Canada Revenue Agency with the Attorney General of Canada as the correct respondent.
2. The application for judicial review is granted, and this matter is remitted for reconsideration by a different decision maker.

"Glennys L. McVeigh"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-525-23

STYLE OF CAUSE: SUPRIYA DHIMAN v CANADA REVENUE AGENCY

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 23, 2024

JUDGMENT AND REASONS: MCVEIGH J.

DATED: MAY 31, 2024

APPEARANCES:

Supriya Dhiman

FOR THE APPLICANT
(SELF-REPRESENTED)

D'ette Bouchier

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE RESPONDENT