

Federal Court



Cour fédérale

Date: 20230113

Docket: T-1390-22

Citation: 2023 FC 54

Calgary, Alberta, January 13, 2023

PRESENT: Mr. Justice Diner

BETWEEN:

TYRONE WEEKES

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Mr. Tyrone Weekes has brought an Application for Judicial Review of a decision by a Canadian Revenue Agency [CRA] Officer to deny him the Canada Recovery Benefit [CRB]. For the reasons outlined below, I will dismiss the Application.

I. Background

[2] The CRB provided financial support to employed and self-employed Canadians who were directly affected by Covid-19 and were not entitled to Employment Insurance benefits. Canadians could apply for CRB for 28 separate two-week eligibility periods starting September 27, 2020, and ending October 23, 2021.

[3] Mr. Weekes is a self-employed musician. He applied for CRB for eleven periods of two weeks between September 2020 and July 2021. He received payments for the periods between September 27, 2020, and January 2, 2021.

[4] On January 22, 2021, in response to a validation review of eligibility for CRB, Mr. Weekes submitted documents to show that he earned at least \$5,000 of employment or net self-employment income in 2019, 2020, or in the 12 months before the date of his first application [Income Requirement]. These documents included a letter from the Didsbury Saloon [Didsbury Letter], which had contracted Mr. Weekes to perform. The Didsbury Letter provided a breakdown of compensation for services rendered by Mr. Weekes in the month of October 2019.

[5] On March 5, 2021, a CRA officer informed Mr. Weekes by letter that he was not eligible for the CRB because he did not meet the Income Requirement [First Review Decision].

[6] On March 18, 2021, Mr. Weekes requested a review of the First Review Decision [Second Review]. He also submitted additional documents to the CRA, including a letter from the manager of the Didsbury Saloon [Manager's Letter] and a copy of his music service contract with the Didsbury Saloon [Didsbury Contract].

[7] On January 20, 2022, a CRA officer informed Mr. Weekes by telephone that his CRB application was again denied because he did not meet the Income Requirement [Second Review Decision]. Mr. Weekes subsequently received a letter dated January 24, 2022, setting out the Second Review Decision.

[8] On February 22, 2022, Mr. Weekes filed an Application for Judicial Review at this Court, but later agreed with CRA to discontinue his application and send the matter back for a third review.

[9] CRA assigned a new officer [Third Review Officer], who considered all the documents submitted by Mr. Weekes, including the Didsbury Letter, the Manager's Letter and the Didsbury Contract; internal CRA information about Mr. Weekes' income and deductions for the 2018 to 2020 taxation years; notes from the previous (First and Second Review) officers; and telephone conversations between the Third Review Officer and Mr. Weekes. On June 24, 2022, that Officer informed Mr. Weekes by letter that he was ineligible for CRB because he did not meet the Income Requirement [Decision].

II. Analysis

[10] The sole issue is whether the Officer's Decision denying Mr. Weekes' CRB because he did not meet the Income Requirement is reasonable. The applicable standard of review is reasonableness (*Aryan v Canada (Attorney General)*, 2022 139 at para 16 [Aryan]), such that the decision must be rational, logical, and justified in relation to the law and facts *Canada (Minister of Citizenship and Immigration) Vavilov*, 2019 SCC 65 at paras 102 and 105 [Vavilov].

[11] The determinative issue in this case is whether Mr. Weekes' income earned from his work at the Didsbury Saloon was net self-employment income, pursuant to s. 3(2) of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [Act], or rather whether this income included expenses that should have been deducted. Section 3(2) of the Act states:

| Income from self-employment | Revenu — travail à son compte |
|---|--|
| (2) For the purpose of paragraphs (1)(d) to (f), income from self-employment is revenue from the self-employment less expenses incurred to earn that revenue. | (2) Le revenu visé aux alinéas (1)d) à f) de la personne qui exécute un travail pour son compte est son revenu moins les dépenses engagées pour le gagner. |

[12] Mr. Weekes argues that his Didsbury Saloon income (\$4,477.61) was net self-employment income. Mr. Weekes submits that this income, in addition to the other earnings he submitted to the CRA in support of his CRB eligibility, total \$5,602.00, which he claims is confirmed by his 2019 income tax return. Mr. Weekes submits that he therefore earned more than \$5,000.00 in 2019, meeting the Income Requirement, and that the Decision to deny him CRB was unreasonable.

[13] The Respondent counters that Mr. Weekes neglected to deduct expenses from his earnings at Didsbury Saloon. The Respondent submits the Didsbury Letter showed that Mr. Weekes was paid a grand total of \$4,477.61 for his musical performances at the Saloon in October 2019. However, the Respondent notes that the breakdown of the compensation for services indicates that he was actually paid \$2,750.00 for his services. The remainder of the \$4,477.61 — or \$1,727.61 — was comprised of three reimbursements of expenses, namely for (i) rent (\$550.00), (ii) food (\$493.25) and (iii) flights (\$684.36).

[14] The Respondent argues that the Manager’s Letter further confirms that the income Mr. Weekes earned at the Didsbury Saloon includes payment for the three above-listed expenses, none of which were properly deducted, since the Manager mentions in that Letter that Mr. Weekes “received an advance on his wages to pay for air travel, etc. as he was short of funds.”

[15] The Respondent contends that Mr. Weekes’ 2019 income tax return shows that he neglected to deduct any expenses from the self-employment income he declared that year, since the income tax return indicates the same amount (\$5,602.00) on both Line 13499 for Gross Business Income and on Line 13500 for Net Self Employment Income. The Respondent submits that in any event, Mr. Weekes cannot rely solely on his tax return as proof of income (*Aryan* at para 41) and that the other documents submitted are simply insufficient to establish that he meets the Income Requirement.

[16] I agree with the Respondent that Mr. Weekes cannot solely rely on his 2019 income tax return as proof of income and that the Officer reasonably asked him for further documents to confirm his eligibility, none of which did (see also *Aryan* at para 35, and *Walker v Canada (Attorney General)*, 2022 FC 381 at paras 33–35).

[17] Specifically, the additional documents that Mr. Weekes submitted — the Didsbury Letter, the Manager Letter, and the Contract — are insufficient to establish that he meets the Income Requirement. While the Contract indicates that “[t]he total monthly payment is \$4470.00 to be

paid in 4 weekly increments”, the Didsbury Letter clearly outlines that part of that money was for rent, food and flights, which are expenses incurred by Mr. Weekes to earn that revenue.

[18] The three expenses should have been deducted from Mr. Weekes’s net self-employment income pursuant to s. 3(2) of the *Act*. Without the inclusion of the expenses in his earnings, Mr. Weekes does not meet the Income Requirement and the Officer’s Decision to deny him CRB was reasonable.

[19] The other amounts stated as proof of self-employed income were deficient both in the manner submitted, also in the quantum that they represented. Giving Mr. Weekes the benefit of the doubt and assuming that they were the amounts received as income, they represent a total sum of \$1,675.00, falling short of the \$2,250.00 he required in addition to the \$2,750.00 he received from the Didsbury Saloon, to have been eligible for the CRB payments that he received.

[20] Finally, the Respondent submits, and I agree, that the style of cause should be amended to identify the Respondent as “Attorney General of Canada” in place of “Donna Boivin, Manager Canada Emergency Benefits Validation” pursuant to Rule 303(2) of the *Federal Courts Rules*, SOR/98-106.

III. Conclusion

[21] For these reasons, I will dismiss the Application for Judicial Review. Given all the circumstances, I will not order any costs against Mr. Weekes, who argued this case ably,

respectfully, and with great integrity, particularly given the fact that he was self-represented. I wish him all the best for his music career and upcoming album.

JUDGMENT in T-1390-22

THIS COURT'S JUDGMENT is that:

1. The Application is dismissed.
2. The style of cause is amended to identify the Respondent as "Attorney General of Canada" in place of "Donna Boivin, Manager Canada Emergency Benefits Validation."
3. There are no costs awarded.

"Alan S. Diner"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1390-22

STYLE OF CAUSE: TYRONE WEEKES v DONNA BOIVIN, MANAGER,
CANADA EMERGENCY BENEFITS VALIDATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: JANUARY 12, 2023

JUDGMENT AND REASONS: DINER J.

DATED: JANUARY 13, 2023

APPEARANCES:

| | |
|---------------|--------------------|
| Tyrone Weekes | ON HIS OWN BEHALF |
| Sarah Hong | FOR THE RESPONDENT |

SOLICITORS OF RECORD:

| | |
|---|--------------------|
| None | FOR THE APPLICANT |
| Attorney General of Canada Edmonton, Alberta | FOR THE RESPONDENT |