

Federal Court



Cour fédérale

**Date: 20230627**

**Docket: T-2021-22**

**Citation: 2023 FC 898**

**Ottawa, Ontario, June 27, 2023**

**PRESENT: The Honourable Madam Justice McVeigh**

**BETWEEN:**

**LAILA MAHMOOD**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. Introduction**

[1] The Applicant was found not to be eligible for the Canadian Recovery Benefit (CRB) and the Canada Recovery Caregiver Benefit (CRCB). She brings this application regarding the first set of decisions (one for the CRB and one for the CRCB) dated May 19, 2022 as well as the second set of decisions (one for the CRB and one for the CRCB) dated September 2, 2022.

[2] The Respondent consents and I agree that though a review of two decisions is contrary to Rule 302 of the *Federal Courts Rules*, SOR/98-106 (the “Rules”), given the two are closely linked it makes sense to determine both together.

[3] While the Applicant’s situation is very sad and her story not embellished, I cannot find the decisions were unreasonable.

## II. Background

[4] The relevant periods that the Applicant applied for the CRB are:

(a) Period 1: September 27 to October 10, 2020

(b) Period 2: October 11 to October 24, 2020

(c) Period 3: October 25 to November 7, 2020

(d) Period 4: November 8 to November 21, 2020

(e) Period 21: July 4 to July 17, 2021

(f) Period 22: July 18 to July 31, 2021

(g) Period 23: August 1 to August 14, 2021

(h) Period 24: August 15 to August 28, 2021

(i) Period 25: August 29 to September 11, 2021

(j) Period 26: September 12 to September 25, 2021

(k) Period 27: September 26 to October 9, 2021

(l) Period 28: October 10 to October 23, 2021

[5] The CRCB periods that were applied for are:

(a) Period 57: October 24 to October 30, 2021

(b) Period 58: October 31 to November 6, 2021

(c) Period 59: November 7 to November 13, 2021

(d) Period 60: November 14 to November 20, 2021

(e) Period 61: November 21 to November 27, 2021

(f) Period 62: November 28 to December 4, 2021

(g) Period 63: December 5 to December 11, 2021

- (h) Period 64: December 12 to December 18, 2021
- (i) Period 65: December 19 to December 25, 2021
- (j) Period 66: December 26, 2021 to January 1, 2022
- (k) Period 67: January 2 to January 8, 2022
- (l) Period 68: January 9 to January 15, 2022
- (m) Period 69: January 16 to January 22, 2022
- (n) Period 70: January 23 to January 29, 2022
- (o) Period 71: January 30 to February 5, 2022
- (p) Period 72: February 6 to February 12, 2022
- (q) Period 73: February 13 to February 19, 2022

[6] In the first set of decisions the Applicant was found not to be eligible as she did not earn the required \$5,000 of gross employment or net self employment income in 2019, 2020 or in the 12 months before the date of the first application.

[7] In the second set of decisions, after reviewing the further submissions as well as the original application, it was determined that the Applicant was not eligible for the CRB as she did not earn at least \$5,000 of gross employment or net self-employment income in 2019, 2020 or in the 12 months before the date of her first application.

[8] In the second set of decisions it was also determined that the Applicant was not eligible for the CRCB because she did not earn at least \$5,000 in gross employment or net self-employment income in 2019, 2020 or the 12 months before the first application.

[9] The CRCB decision included the finding that her work week was not reduced by 50% because she cared for a family member due to COVID-19. The decision-maker found she was not caring for a child under 12 or family member who could not attend school, daycare or care facility because of COVID-19 or the availability of the ordinary caretaker due to COVID-19 reasons.

### III. Issue

[10] The sole issue in this application is whether the decisions were unreasonable.

IV. Analysis

A. *Preliminary Issues*

[11] The Respondent was incorrectly named and thus the Attorney General of Canada will be substituted for Canada Revenue Agency for the Style of Cause (*Hasselsjo v Canada (Attorney General)*, 2021 CanLII 89551 (FC) at para 2).

[12] The Applicant is self representing and has attached to her affidavit three exhibits (Exhibits J, K, L) that were not before the decision-maker. This is trite law in the administrative law sphere that only material before the decision maker will be considered. The limited exceptions to this general rule are if the material is: a) general background that does not go to the merits, b) procedural defects not in the evidentiary record, or c) where there is a complete absence of evidence. Given these documents did not fit within any of the exceptions, they will not be considered as they are found to be new evidence that was not before the decision-maker will be considered.

B. *The Law*

[13] The legislation related to this application is the *Canada Recovery Benefits Act*, SC 2020, c 12 (the “Act”) (see Annex A).

C. *Standard of Review*

[14] The standard of review for this application is reasonableness. (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65). Intelligibility, transparency and justification are required by *Vavilov*.

[15] The Applicant provided information surrounding her income earned at the time in question including a recent tax reassessment. She said emphatically that she would not have applied if she had not earned the required \$5,000. She explained where she received her income from and her personal situation regarding the birth of her two children during the period at issue. In reply she told the Court of her childcare situation and why she felt she was entitled to the CRCB.

[16] She was transparent in her answers to the Court regarding the fact she was not able to provide CRA with the information requested by the agent. The reason she could not provide evidence of her income from her tutoring was because she was paid cash only and did not deposit the money but used it to support her family on an immediate basis.

[17] When she was asked in the second review to provide such proof she could only provide letters from three families with some information but without the necessary details as necessary as proof of income as needed by the Act and as requested by the reviewer per the guidelines (see paragraphs 20-21) . Her income shown on her tax documents included her employment income

from one job as well as her income on commission from Scentsy but she agreed that income from those two jobs would not meet the necessary \$5,000.

[18] As well, regarding the CRCB, she said that as she had a second child during COVID and her husband was not present in the Country and could not return she had to care for their children. Previously her mother had assisted for the care of her first child so she could earn income, but it was confirmed she had never had her children registered for daycare or other caregivers. She said her mother could not care for her child given her own son was at home during COVID so she was forced to care for both children.

[19] The Respondent's counsel walked through the evidence (an affidavit by Rachel Purdy of CRA who was the second reviewing CRA agent) before the decision-makers including the notes regarding the phone calls to the Applicant where she was told what evidence was needed to prove she made the amount of money required by statute.

[20] The CRA Guideline addresses the proof needed to establish the \$5000 minimum income that an applicant must have earned to be eligible to receive the CRB. The CRB Guideline states that to be eligible for the benefits an applicant must have earned a minimum of \$5000 in 2019 or within the 12 months prior to the date of their application. Agents are to use their "judgement, experience and expertise" in deciding if proof is required. If the applicant is unable to provide any of the documents suggested, agents are to work with them to see what other acceptable documents they may have. In this case that is exactly what occurred as the second reviewing agent did exactly that.



[21] Further to this, the CRA Guideline anticipates what may be needed for proof of self-employment income:

### **Self-employment income**

Small business owners can receive income from their business in different ways, including as salary, business income or dividends.

If a small business owner operates as an individual they bill clients in their own name, if they operate under a registered business name they bill their clients in the business name. If the business has a name other than their own, there should be a separate bank account.

Things to consider for small business owners:

- Do they have business cards to promote their business? - Do they advertise? E.g. Kijiji, Marketplace, Craigslist, their own website?
- Do they actively seek employment opportunities?
- Do they have a registered BN?
- Do they perform regular work and provide to non-related persons?
- If they are always paid in cash, do they have proof they keep track of hours and payments?

Example 1:

Applicant wants to include 'dog walking' services as income. They should be able to produce invoices (in real time) to their clients that show the date of the service, the name of the client (type of animal or number of animals), cost of service, type of payment received.

Example 2:

Applicant wants to submit receipts to support that she provided babysitting or child care services. Any receipts or invoices they have should include the name of the parent, names of the children and address of the person they provided the service too. The applicant's information (including SIN) should be provided on the receipt so the individual could claim child care expenses.

...

Acceptable proof:

- Invoice for services rendered, for self employed individuals or sub contractors. For example an invoice for painting a house or a cleaning service etc. Must include the date of the service, who the service was for, and the applicant's or company's name.
- Documentation for receipt of payment for the service provided, e.g. statement of account, or bill of sale showing a payment and the remaining balance owed.
- Documentation showing income is earned from carrying on a "trade or business" as a sole proprietor, an independent contractor, or some form of partnership
- Contracts
- A list of expenses to support the net result of earnings
- Proof of advertising
- Any other documentation that will substantiate \$5,000.00 in self employment income

[22] In my view, the record demonstrates that the Officer considered all of the documents submitted by the Applicant as well as the Applicant's explanation as to why she could not provide proof as set out in the guidelines or by the second reviewing CRA agent.

[23] The record establishes that what was provided by the Applicant was insufficient to prove that the Applicant had the income as required. The Officer found that the Applicant had not established that she was eligible to receive the CRB or CRCB and provided those reasons in her decisions.

[24] The burden is on the Applicant, as the challenging party, to demonstrate that the first and second set of decisions are unreasonable. In that regard, the Court must be satisfied “that there are sufficiently serious short comings in the decision such that it cannot be said to exhibit the requisite degree of justification, transparency and intelligibility” (Vavilov at para 100). Based on the reasons, the evidence and record before me, I am not satisfied that the Applicant has met her burden.

V. Conclusion

[25] The decisions are reasonable, transparent and justiciable. The Application is dismissed.

[26] A bill of Costs was filed by the Respondent and a lump sum of \$2,700 was sought by the successful party. Given the limited means of the Applicant as evidenced in her tax returns, I will award costs to the Respondent in the lump sum inclusive of taxes and disbursements in the amount of \$250.

**JUDGMENT in T-2021-22**

**THIS COURT'S JUDGMENT is that:**

1. The style of cause is amended to name the Attorney General of Canada as the proper Respondent.
2. The application is dismissed
3. Costs are awarded to the Respondent in the lump sum amount of \$250 inclusive of taxes and disbursements.

"Glennys L. McVeigh"

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Judge

## ANNEX A

### Definitions

**2** The following definitions apply in this Act.

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**Her Majesty** means Her Majesty in right of Canada. (*Sa Majesté*)

...

**Minister** means the Minister of Employment and Social Development. (*ministre*)

...

### Eligibility

**3(1)** A person is eligible for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021 if

...

**(d)** in the case of an application made under section 4 in respect of a two-week period beginning in 2020, they had, for 2019 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000...

**(e)** in the case of an application made under section 4 by a person other than a person referred to in paragraph (e.1) in respect of a two-week period beginning in 2021, they had, for 2019 or for 2020 or in the 12-month period preceding the day on

### Définitions

**2** Les définitions qui suivent s'appliquent à la présente loi.

**COVID-19** La maladie à coronavirus 2019. (*COVID-19*)

**Sa Majesté** Sa Majesté du chef du Canada. (*Her Majesty*)

...

**ministre** Le ministre de l'Emploi et du Développement social. (*Minister*)

...

### Admissibilité

**3 (1)** Est admissible à la prestation canadienne de relance économique, à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021, la personne qui remplit les conditions suivantes :

...

**d)** dans le cas d'une demande présentée en vertu de l'article 4 à l'égard d'une période de deux semaines qui débute en 2020, ses revenus provenant des sources ci-après, pour l'année 2019 ou au cours des douze mois précédant la date à laquelle elle présente sa demande, s'élevaient à au moins cinq mille dollars...

**e)** dans le cas d'une demande présentée en vertu de l'article 4, par une personne qui n'est pas visée à l'alinéa e.1), à l'égard d'une période de deux semaines qui débute en 2021, ses revenus provenant des sources mentionnées aux sous-alinéas

which they make the application, a total income of at least \$5,000 from the sources referred to in subparagraphs (d)(i) to (v);

...

(i) they sought work during the two-week period, whether as an employee or in self-employment;

...

#### **Income from self-employment**

(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.

...

#### **Application**

4(1) A person may, in the form and manner established by the Minister, apply for a Canada recovery benefit for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021.

#### **Limitation**

(2) No application is permitted to be made on any day that is more than 60 days after the end of the two-week period to which the benefit relates.

#### **Attestation**

5 (1) Subject to subsections (2) to (5), a person must, in their application, attest that they meet each of the eligibility conditions referred to in paragraphs

d)(i) à (v) pour l'année 2019 ou 2020 ou au cours des douze mois précédant la date à laquelle elle présente sa demande s'élevaient à au moins cinq mille dollars;

...

i) elle a fait des recherches pour trouver un emploi ou du travail à exécuter pour son compte au cours de la période de deux semaines;

...

#### **Revenu — travail à son compte**

(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.

...

#### **Demande**

4 (1) Toute personne peut, selon les modalités — notamment de forme — fixées par le ministre, demander une prestation canadienne de relance économique à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021.

#### **Restriction**

(2) Aucune demande ne peut être présentée plus de soixante jours après la fin de la période de deux semaines à laquelle la prestation se rapporte.

#### **Attestation**

5 (1) Sous réserve des paragraphes (2) à (5), la personne atteste, dans sa demande, qu'elle remplit chacune des conditions d'admissibilité visées aux alinéas 3(1)a) à

3(1)(a) to (n).

**Exception — paragraphs 3(1)(d) and (e)**

(2) A person is not required to attest to their income under paragraphs 3(1)(d) and (e) if they have previously received any benefit under this Act and they attest to that fact.

...

**Obligation to provide information**

6 An applicant must provide the Minister with any information that the Minister may require in respect of the application.

**Payment of benefit**

7 The Minister must pay a Canada recovery benefit to a person who makes an application under section 4 and who is eligible for the benefit.

**Amount of payment**

8 (1) Subject to subsection (2), the amount of a Canada recovery benefit for a week is

(a) in respect of a person who applies or has applied under section 4 for any two-week period beginning before July 18, 2021, \$500 for a maximum of 42 weeks and \$300 for every subsequent week; and

(b) in respect of a person who has never applied under section 4 for any two-week period beginning before July 18, 2021, \$300 for a week beginning on or after that date.

n).

**Exception — alinéas 3(1)d) et e)**

(2) Une personne n'est pas tenue d'attester de ses revenus visés aux alinéas 3(1)d) et e) si elle a déjà reçu une prestation au titre de la présente loi et qu'elle atteste de ce fait.

...

**Obligation de fournir des renseignements**

6 Le demandeur fournit au ministre tout renseignement que ce dernier peut exiger relativement à la demande.

**Versement de la prestation**

7 Le ministre verse la prestation canadienne de relance économique à la personne qui présente une demande en vertu de l'article 4 et qui y est admissible.

**Montant de la prestation**

8 (1) Sous réserve du paragraphe (2), le montant de la prestation canadienne de relance économique pour une semaine est :

a) de cinq cents dollars pour un maximum de quarante-deux semaines et de trois cents dollars pour toute semaine subséquente, dans le cas de la personne qui présente ou a présenté une demande en vertu de l'article 4 à l'égard d'une période de deux semaines débutant avant le 18 juillet 2021;

b) de trois cents dollars pour toute semaine débutant le 18 juillet 2021 ou après cette date, dans le cas de la personne n'ayant jamais présenté de demande en vertu de l'article 4 à l'égard d'une période de deux semaines débutant avant cette



**Exception**

(1.1) Despite subsection (1), if a person referred to in paragraph (1)(b) subsequently applies under section 4 for any two-week period beginning before July 18, 2021, the person is deemed to be a person referred to in paragraph (1)(a) except for every two-week period for which the person was paid \$300 for each week.

**Repayment**

(2) If a person who has received a Canada recovery benefit or the benefit referred to in section 9.1 has income of more than \$38,000 for 2020 or for 2021, the person must repay an amount equal to 50 cents for every dollar of income earned in that year above \$38,000 of income, up to the total amount of those benefits received by them in the year, which total amount is calculated without taking into account any erroneous payment or overpayment, and that amount constitutes a debt due to Her Majesty and the debt is payable and may be recovered by the Minister as of the balance-due day, as defined in subsection 248(1) of the Income Tax Act, for the year.

**Definition of income**

(3) In subsection (2), income, in respect of a person, means the amount that would be their income for 2020 or for 2021, determined under Part I of the Income Tax Act if no amount were

date.

**Exception**

(1.1) Malgré le paragraphe (1), si la personne visée à l'alinéa (1)(b) présente par la suite, en vertu de l'article 4, une demande à l'égard d'une période de deux semaines débutant avant le 18 juillet 2021, elle est réputée être une personne visée à l'alinéa (1)(a), sauf à l'égard de toute période de deux semaines à l'égard de laquelle elle a reçu trois cents dollars par semaine.

**Restitution**

(2) La personne qui reçoit la prestation canadienne de relance économique ou la prestation prévue à l'article 9.1 et dont le revenu est supérieur à 38 000 \$ au cours de l'année 2020 ou 2021 est tenue de restituer cinquante cents pour chaque dollar de revenu gagné au cours de cette année au-delà de ce seuil de 38 000 \$ de revenu, et ce, jusqu'à concurrence du montant total de ces prestations reçues au cours de l'année en cause, déduction faite de tout montant auquel elle n'avait pas droit ou en excédent de celui auquel elle avait droit. La somme due constitue, pour l'année en cause, une créance de Sa Majesté qui est exigible et dont le recouvrement peut être poursuivi à ce titre par le ministre à compter de la date d'exigibilité du solde, au sens du paragraphe 248(1) de la Loi de l'impôt sur le revenu.

**Définition de revenu**

(3) Au paragraphe (2), revenu s'entend du montant qui serait le revenu d'une personne pour l'année 2020 ou 2021, déduction faite de toute prestation reçue au titre de la présente partie, déterminé en application de la partie I de la Loi de



l'impôt sur le revenu, si aucun montant n'était déductible selon les alinéas 20(1)ww) et 60v.1), v.2), w), y) et z) de cette loi, ni inclus au titre d'un gain provenant d'une disposition de bien auquel l'article 79 de cette loi s'applique ou au titre de l'alinéa 56(1)q.1) ou du paragraphe 56(6) de cette loi.

(a) included in respect of amounts paid as benefits under this Part;

(b) deductible under paragraphs 20(1)(ww) and 60(v.1), (v.2), (w), (y) and (z) of that Act;

(c) included in respect of a gain from a disposition of property to which section 79 of that Act applies; or

(d) included under paragraph 56(1)(q.1) or subsection 56(6) of that Act.

#### **Application of Income Tax Act provisions**

(4) Sections 150, 150.1, 151, 152, 158 to 160.1, 161 and 161.3 to 167, Division J of Part I and sections 220 to 226, subsection 227(10), sections 239, 243 and 244 and subsections 248(7) and (11) of the Income Tax Act apply to subsection (2) with any modifications that the circumstances require, except that, in the application of those provisions,

(a) "Act" is to be read as "subsection 8(2) of the Canada Recovery Benefits Act";

(b) "taxpayer" is to be read as "person";

#### **Application de la Loi de l'impôt sur le revenu**

(4) Les articles 150, 150.1, 151, 152, 158 à 160.1, 161 et 161.3 à 167, la section J de la partie I, les articles 220 à 226, le paragraphe 227(10), les articles 239, 243 et 244 et les paragraphes 248(7) et (11) de la Loi de l'impôt sur le revenu s'appliquent à l'égard du paragraphe (2), avec les adaptations nécessaires. Toutefois, avec les adaptations nécessaires, pour l'application de ces dispositions à ce paragraphe :

a) la mention « loi » vaut mention de « paragraphe 8(2) de la Loi sur les prestations canadiennes de relance économique »;

b) la mention « contribuable » vaut mention de « personne »;

(c) “tax” and “taxes” are to be read as “amount to be repaid under subsection 8(2) of the Canada Recovery Benefits Act”; and

(d) “under this Part” is to be read as “under subsection 8(2) of the Canada Recovery Benefits Act”.

...

### **Eligibility**

**17 (1)** A person is eligible for a Canada recovery caregiving benefit for any week falling within the period beginning on September 27, 2020 and ending on May 7, 2022 if

(a) they have a valid social insurance number;

(b) they were at least 15 years of age on the first day of the week;

(c) they were resident and present in Canada during the week;

(d) in the case of an application made under section 18 in respect of a week beginning in 2020, they had, for 2019 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000 from the following sources:

(i) employment,

(ii) self-employment,

c) les mentions « impôt » et « impôts » valent mention de « somme que la personne est tenue de restituer au titre du paragraphe 8(2) de la Loi sur les prestations canadiennes de relance économique »;

d) la mention « en vertu de la présente partie » vaut mention de « en vertu du paragraphe 8(2) de la Loi sur les prestations canadiennes de relance économique ».

...

### **Admissibilité**

**17 (1)** Est admissible à la prestation canadienne de relance économique pour les proches aidants, à l’égard de toute semaine comprise dans la période commençant le 27 septembre 2020 et se terminant le 7 mai 2022, la personne qui remplit les conditions suivantes :

a) elle détient un numéro d’assurance sociale valide;

b) elle était âgée d’au moins quinze ans le premier jour de la semaine visée;

c) elle résidait et était présente au Canada au cours de la semaine visée;

d) dans le cas d’une demande présentée en vertu de l’article 18 à l’égard d’une semaine qui débute en 2020, ses revenus provenant des sources ci-après, pour l’année 2019 ou au cours des douze mois précédant la date à laquelle elle présente sa demande, s’élevaient à au moins cinq mille dollars :

(i) un emploi,

(ii) un travail qu’elle exécute pour son compte,

**(iii)** benefits paid to the person under any of subsections 22(1), 23(1), 152.04(1) and 152.05(1) of the Employment Insurance Act,

**(iv)** allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption, and

**(v)** any other source of income that is prescribed by regulation;

**(e)** in the case of an application made under section 18 in respect of a week beginning in 2021, they had, for 2019 or for 2020 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000 from the sources referred to in subparagraphs (d)(i) to (v);

**(e.1)** in the case of an application made under section 18 in respect of a week beginning in 2022, they had, for 2019, 2020 or 2021 or in the 12-month period preceding the day on which they make the application, a total income of at least \$5,000 from the sources referred to in subparagraphs (d)(i) to (v);

**(f)** they have, as an employee, been unable to work for at least 50% of the time they would have otherwise worked in that week — or they have, as a self-employed person, reduced the time devoted to their work as a self-employed person by at least 50% of the time they would have otherwise worked in that week — because

**(i)** they cared for a child who was under

**(iii)** des prestations qui lui sont payées au titre de l'un des paragraphes 22(1), 23(1), 152.04(1) et 152.05(1) de la Loi sur l'assurance-emploi,

**(iv)** des allocations, prestations ou autres sommes qui lui sont payées, en vertu d'un régime provincial, en cas de grossesse ou de soins à donner par elle à son ou ses nouveau-nés ou à un ou plusieurs enfants placés chez elle en vue de leur adoption,

**(v)** une autre source de revenu prévue par règlement;

**(e)** dans le cas d'une demande présentée en vertu de l'article 18 à l'égard d'une semaine qui débute en 2021, ses revenus provenant des sources mentionnées aux sous-alinéas d)(i) à (v) pour l'année 2019 ou 2020 ou au cours des douze mois précédant la date à laquelle elle présente sa demande s'élevaient à au moins cinq mille dollars;

**(e.1)** dans le cas d'une demande présentée en vertu de l'article 18 à l'égard d'une semaine qui débute en 2022, ses revenus provenant des sources mentionnées aux sous-alinéas d)(i) à (v) pour l'année 2019, 2020 ou 2021 ou au cours des douze mois précédant la date à laquelle elle présente sa demande s'élevaient à au moins cinq mille dollars;

**(f)** au cours de la semaine visée, elle a été incapable d'exercer son emploi pendant au moins cinquante pour cent du temps durant lequel elle aurait par ailleurs travaillé — ou a réduit d'au moins cinquante pour cent le temps qu'elle aurait par ailleurs consacré au travail qu'elle exécute pour son compte — pour l'une ou l'autre des raisons suivantes :

**(i)** elle s'occupait d'un enfant qui avait



12 years of age on the first day of the week because

**(A)** the school or other facility that the child normally attended was, for reasons related to COVID-19, closed, open only at certain times or open only for certain children,

**(B)** the child could not attend the school or other facility because

**(I)** the child contracted or might have contracted COVID-19,

**(II)** the child was in isolation on the advice of a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19, or

**(III)** the child would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if the child contracted COVID-19, or

**(C)** the person who usually cared for the child was not available for reasons related to COVID-19, or

**(ii)** they cared for a family member who requires supervised care because

**(A)** the day program or facility that the family member normally attended was, for reasons related to COVID-19, unavailable or closed, available or open only at certain times or available or open only for certain persons,

**(B)** the family member could not attend

moins de douze ans le premier jour de la semaine visée, pour l'une ou l'autre des raisons suivantes :

**(A)** l'école ou toute autre installation que l'enfant fréquentait était fermée, ou ouverte seulement durant certaines périodes ou seulement pour certains enfants, pour des raisons liées à la COVID-19,

**(B)** l'enfant ne pouvait fréquenter l'école ou l'installation car :

**(I)** soit il a contracté la COVID-19 ou pourrait avoir contracté la COVID-19,

**(II)** soit il était en isolement sur l'avis d'un médecin, d'un infirmier praticien, d'une personne en situation d'autorité, d'un gouvernement ou d'un organisme de santé publique pour des raisons liées à la COVID-19,

**(III)** soit il risquait, de l'avis d'un médecin ou d'un infirmier praticien, de développer de graves complications s'il contractait la COVID-19,

**(C)** la personne qui s'en occupait habituellement n'était pas disponible pour des raisons liées à la COVID-19,

**(ii)** elle s'occupait d'un membre de la famille qui nécessite des soins supervisés, pour l'une ou l'autre des raisons suivantes :

**(A)** l'installation que le membre de la famille fréquentait ou le programme de jour qu'il suivait était fermé ou suspendu, ou ouvert ou offert seulement durant certaines périodes ou seulement pour certaines personnes, pour des raisons liées à la COVID-19,

**(B)** le membre de la famille ne pouvait

the day program or facility because

**(I)** the family member contracted or might have contracted COVID-19,

**(II)** the family member was in isolation on the advice of their employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19, or

**(III)** the family member would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if the family member contracted COVID-19, or

**(C)** the care services that are normally provided to the family member at their place of residence were not available for reasons related to COVID-19;

**(g)** no income referred to in any of the following subparagraphs was paid or was payable to the person in respect of the week:

**(i)** benefits, as defined in subsection 2(1) of the Employment Insurance Act,

**(ii)** allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption,

**(iii)** a Canada recovery benefit or a Canada recovery sickness benefit,

**(iii.1)** a lockdown benefit, as defined in section 2 of the Canada Worker

fréquenter l'installation ou suivre le programme de jour car :

**(I)** soit il a contracté la COVID-19 ou pourrait avoir contracté la COVID-19,

**(II)** soit il était en isolement sur l'avis de son employeur, d'un médecin, d'un infirmier praticien, d'une personne en situation d'autorité, d'un gouvernement ou d'un organisme de santé publique pour des raisons liées à la COVID-19,

**(III)** soit il risquait, de l'avis d'un médecin ou d'un infirmier praticien, de développer de graves complications s'il contractait la COVID-19,

**(C)** les services de soins que le membre de la famille recevait habituellement à sa résidence n'étaient pas offerts pour des raisons liées à la COVID-19;

**(g)** aucun des revenus ci-après ne lui a été versé ou n'aurait eu à lui être versé à l'égard de la semaine visée :

**(i)** des prestations, au sens du paragraphe 2(1) de la Loi sur l'assurance-emploi,

**(ii)** des allocations, prestations ou autres sommes qui lui sont payées, en vertu d'un régime provincial, en cas de grossesse ou de soins à donner par elle à son ou ses nouveau-nés ou à un ou plusieurs enfants placés chez elle en vue de leur adoption,

**(iii)** une prestation canadienne pour la relance économique ou une prestation canadienne de maladie pour la relance économique,

**(iii.1)** une prestation de confinement, au sens de l'article 2 de la Loi sur la prestation canadienne pour les travailleurs



Lockdown Benefit Act, and

(iv) any other income that is prescribed by regulation;

(h) they have not, in respect of the week, been granted paid leave or been paid under a plan that provides for payment for the care or support of another person; and

(i) they were not, at any time during the week, required to quarantine or isolate themselves under any order made under the Quarantine Act as a result of entering into Canada or

(i) if they were required to do so at any time during the week, the only reason for their having been outside Canada was to

(A) receive a medical treatment that has been certified by a medical practitioner to be necessary, or

(B) accompany a person who has been certified by a medical practitioner to be incapable of travelling without the assistance of an attendant and whose only reason for having been outside Canada was to receive a medical treatment that has been certified by a medical practitioner to be necessary, or

(ii) if, as a result of entering into Canada, they were required to isolate themselves under such an order at any time during the week, they are a person to whom the requirement to quarantine themselves under the order would not have applied had they not been required to isolate themselves.

#### **Income from self-employment**

(2) For the purpose of paragraphs (1)(d) to

en cas de confinement,

(iv) tout autre revenu prévu par règlement;

(h) elle n'a pas reçu, à l'égard de la semaine visée, de congé payé ou de paiements au titre d'un régime d'indemnité pour soins ou soutien à donner à une personne;

(i) elle n'a été tenue, à aucun moment au cours de la semaine visée, de se mettre en quarantaine ou de s'isoler en application d'un décret pris en vertu de la Loi sur la mise en quarantaine en raison de son entrée au Canada ou :

(i) si elle y a été tenue à un moment quelconque au cours de la semaine visée, la seule raison pour laquelle elle était sortie du Canada était, selon le cas :

(A) pour recevoir un traitement médical qui, d'après l'attestation d'un médecin, était nécessaire,

(B) pour accompagner une personne qui, d'après l'attestation d'un médecin, était incapable de voyager sans l'aide d'un préposé à ses soins et dont la seule raison de sortir du Canada était pour recevoir un traitement médical qui, d'après l'attestation d'un médecin, était nécessaire,

(ii) si, en raison de son entrée au Canada, elle a été tenue de s'isoler en application d'un tel décret à un moment quelconque au cours de la semaine visée, elle est une personne qui, n'eût été l'obligation de s'isoler, n'aurait pas été assujettie à l'obligation de se mettre en quarantaine en application du décret.

#### **Revenu — travail à son compte**

(2) Le revenu visé aux alinéas (1)d) à e.1)

(e.1), income from self-employment is revenue from the self-employment less expenses incurred to earn that revenue.

**Definition of family member**

(3) In subsection (1), family member, in respect of a person, includes anyone whom the person considers to be like a close relative or who considers the person to be like a close relative.

**Application**

18 (1) A person may, in the form and manner established by the Minister, apply for a Canada recovery caregiving benefit for any week falling within the period beginning on September 27, 2020 and ending on May 7, 2022.

**Limitation**

(2) No application is permitted to be made on any day that is more than 60 days after the end of the week to which the benefit relates. However, an application in relation to any week that begins after November 20, 2021 and ends before the day on which this subsection comes into force may be made within 60 days after the end of the week during which this subsection comes into force.

...

**Obligation to provide information**

20 An applicant must provide the Minister with any information that the Minister may require in respect of the application.

de la personne qui exécute un travail pour son compte est son revenu moins les dépenses engagées pour le gagner.

**Définition de membre de la famille**

(3) Au paragraphe (1), est assimilée à un membre de la famille la personne considérée comme un proche parent ou qui se considère comme un proche parent.

**Demande**

18 (1) Toute personne peut, selon les modalités — notamment de forme — fixées par le ministre, demander une prestation canadienne de relance économique pour les proches aidants à l'égard de toute semaine comprise dans la période commençant le 27 septembre 2020 et se terminant le 7 mai 2022.

**Restriction**

(2) Aucune demande ne peut être présentée plus de soixante jours après la fin de la semaine à laquelle la prestation se rapporte. Toutefois, la demande visant toute semaine qui commence après le 20 novembre 2021 et se termine avant la date d'entrée en vigueur du présent paragraphe peut être présentée dans les soixante jours après la fin de la semaine pendant laquelle ce paragraphe entre en vigueur.

...

**Obligation de fournir des renseignements**

20 Le demandeur fournit au ministre tout renseignement que ce dernier peut exiger relativement à la demande.

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-2021-22

**STYLE OF CAUSE:** LAILA MAHMOOD v ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JUNE 13, 2023

**JUDGMENT AND REASONS:** MCVEIGH J.

**DATED:** JUNE 27, 2023

**APPEARANCES:**

Laila Mahmood

FOR THE APPLICANT  
(ON HER OWN BEHALF)

Grigor Grigorian

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Attorney General of Canada  
Toronto, Ontario

FOR THE RESPONDENT