Federal Court  Cour fédérale

Date: 20230719

Docket: T-2357-22

Citation: 2023 FC 986

[ENGLISH TRANSLATION]

Montréal, Quebec, July 19, 2023

PRESENT: Mr. Justice Gascon

BETWEEN:

LEO ARGÜELLO

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Mr. Leo Argüello, is seeking judicial review of two decisions dated October 12, 2022 [Decisions] in which the Canada Revenue Agency [CRA] concluded that he was ineligible for the Canada Recovery Benefit [CRB] and the Canada Worker Lockdown Benefit [CWLB]. The CRA refused Mr. Argüello's claims for benefits because he did not earn at

least $5,000 in employment income or net self-employment income in 2019, 2020, 2021 or in the 12 months before the date of his first claim and, in the case of the CWLB, he also failed to establish that he could not work for reasons considered reasonable or related to a COVID-19 lockdown.

[2] Mr. Argüello is asking the Court to refer his case back to the CRA for redetermination. He argues that the CRA breached its obligations of procedural fairness and that it erroneously concluded that he did not earn at least $5,000, before taxes, in employment income or net self-employment income during the relevant period.

[3] For the following reasons, Mr. Argüello's application for judicial review will be allowed. After reviewing the CRA's reasons, the evidence on the record and the applicable law, I am of the view that the Decisions on both the CRB and CWLB are unreasonable in view of the factual context of Mr. Argüello's case and do not comply with the rules of procedural fairness.

II. Background

A. *Facts*

[4] The CRB and CWLB are part of the many measures introduced by the federal government starting in 2020 to address the economic impacts caused by the COVID-19 pandemic. These were targeted monetary payments designed to provide financial support to individuals who were directly affected by the pandemic and were not entitled to employment

insurance [EI] benefits. The CRA is the federal agency responsible for the administration of the CRB and the CWLB.

[5] The CRB was available for any two-week period between September 27, 2020, and October 23, 2021, for eligible employed and self-employed individuals who were directly affected by the COVID-19 pandemic (*Aryan v Canada (Attorney General)*, 2022 FC 139 [*Aryan*] at para 2). Eligibility criteria for the CRB, as set out in the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2, included the requirement that the employed or self-employed individual must have earned at least $5,000 (before taxes) in employment income or net self-employment income in 2019, 2020, or in the course of the 12 months before the date of his or her first claim. The CWLB, for its part, was available for any one-week period between October 24, 2021, and May 7, 2022, for employed and self-employed individuals who could not work due to a COVID-19 lockdown. The CWLB eligibility criteria, as set out in the *Canada Worker Lockdown Benefit Act*, SC 2021, c 26, s 5, required, among other things, that the employed or self-employed individual must have earned at least $5,000 (before taxes) in employment income or net self-employment income in 2020, 2021, or within the 12 months before the date of his or her first claim, and that the individual could not work for reasons considered reasonable or related to a COVID-19 lockdown.

[6] After filing a claim for benefits, Mr. Argüello received the CRB for all 27 two-week periods between September 27, 2020, and October 9, 2021. Later, he also received the CWLB for five one-week periods between December 26, 2021 and February 12, 2022.

[7] On January 28, 2022, Mr. Argüello sent the CRA his pay stubs and invoices for 2016, 2017, 2019 and 2021, a report of hours worked and a summary. On April 14, 2022, he also submitted his bank statements for 2019.

[8] On April1 9, 2022, Mr. Argüello was selected for a review of his eligibility for the CRB and the CWLB. On April 21, 2022, following the first review of his eligibility, Mr. Argüello received a letter from the CRA stating that he was not eligible for the benefits received.

[9] On May 16, 2022, Mr. Argüello filed an amended income tax return for the 2019 taxation year to add an amount of approximately $2,924 to his net professional income. This amendment increased his reported net professional income to approximately $6,254 for the 2019 taxation year.

[10] On May 19, 2022, Mr. Argüello applied for a second review of his eligibility for the CRB and CWLB benefits. At the same time, he sent the CRA an explanatory letter along with his 2019, 2020 and 2021 income tax returns.

[11] On September 14 and 20, 2022, the CRA’s second review officer [Officer], Mélanie Lajoie, contacted Mr. Argüello to ask him about his work activities and to establish his net income for 2019, 2020 and 2021. After verification, the Officer determined that Mr. Argüello was ineligible for both the CRB and the CWLB.

[12] Accordingly, on October 12, 2022, the CRA sent its Decisions to Mr. Argüello by two standard letters. These letters informed Mr. Argüello that he was not eligible for the CRB and CWLB because he did not earn a minimum of $5,000 (before taxes) in employment income or net self-employment income in 2019, 2020, 2021 or in the 12 months before the date of his first claim and that, with respect to the CWLB, he did not demonstrate that he could not work for reasons considered reasonable or related to a COVID-19 lockdown.

[13] In addition to these letters, the CRA issued notices of redetermination related to the COVID-19 benefits, in which it claims a repayment from Mr. Argüello of $24,600 for ineligible CRB payments and $270 for ineligible CWLB payments.

[14] On November 10, 2022, Mr. Argüello filed this application for judicial review against the Decisions. Mr. Argüello is representing himself.

B. *Standard of review*

[15] As the respondent Attorney General of Canada [AGC] correctly pointed out, the standard of review applicable to the merits of the Officer's Decisions is reasonableness (*He v Canada (Attorney General)*, 2022 FC 1503 [*He*] at para 20; *Lajoie v Canada (Attorney General)*, 2022 FC 1088 at para 1; *Aryan* at paras 15–16).

[16] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and determine whether the decision 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" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 85). The reviewing court must therefore ask "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). The burden is on the party challenging the decision to show that it is unreasonable.

[17] A reasonableness review must entail a robust evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must begin its inquiry by examining the reasons provided with "respectful attention" and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13). The reasonableness standard always finds its starting point in the principle of judicial restraint and deference and requires reviewing courts to respect the distinct role that Parliament has chosen to confer on administrative decision makers rather than on the courts (*Vavilov* at paras 13, 46, 75). A decision cannot be overturned on the basis of mere superficial or peripheral errors. Rather, it must have serious flaws, such as an internally incoherent reasoning process (*Vavilov* at paras 100–101).

[18] However, in terms of procedural fairness, the Federal Court of Appeal has repeatedly concluded that procedural fairness does not require the application of the usual standards of judicial review (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35; *Lipskaia v Canada (Attorney General)*,

2019 FCA 267 at para 14; *Canadian Airport Workers Union v International Association of Machinists and Aerospace Workers*, 2019 FCA 263 at paras 24–25; *Perez v Hull*, 2019 FCA 238 at para 18; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*CPR*] at para 54). Rather, it is a legal question that needs to be assessed on the basis of the circumstances to determine whether the decision maker complies with the duty of procedural fairness and the principles of fundamental justice (*CPR* at para 56; *Huang v Canada (Citizenship and Immigration)*, 2018 FC 940 at paras 51–54). An applicant is entitled to know the case against him or her and to be provided a full and fair opportunity to respond.

III. Analysis

[19] This application for judicial review raises the following three issues: (1) whether Mr. Argüello can produce documents that had not been submitted to the administrative decision maker; (2) whether the Decisions unreasonable; and (3) whether the decision-making process followed by the Officer was consistent with the principles of procedural fairness.

A. *Admissibility of new evidence*

[20] As part of his written representations in support of his application for judicial review, Mr. Argüello submitted to the Court evidence that had not been filed with the CRA at the time of the second review. Some of this evidence refers to facts that did not appear in the CRA's file, and the AGC therefore has no objection to their filing.

[21] The AGC objects only to the filing of Exhibit P-5 attached to Mr. Argüello's affidavit because the documents it contains were not before the decision maker and contain facts not known to the Officer at the time of the Decisions. Exhibit P-5 includes a series of receipts issued by Mr. Argüello for Spanish courses and translation services he provided in 2019. These receipts refer to the additional income reported on his amended 2019 tax return.

[22] It is true that only the evidentiary record before the administrative decision maker is admissible before the reviewing court (*Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128 [*Tsleil-Waututh*] at paras 97–98; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*Access Copyright*] at para 19; *Fortier v Canada (Attorney General)*, 2022 FC 374 [*Fortier*] at para 17). Indeed, "the essential purpose of judicial review is the review of decisions, not the determination, by trial de novo, of questions that were not adequately canvassed in evidence before the relevant decision maker" (*Cozak v Canada (Attorney General)*, 2022 FC 1351 at para 22, citing *Access Copyright* at para 19).

[23] Nevertheless, there are limited exceptions to this principle (*Gittens v Canada (Attorney General)*, 2019 FCA 256 at para 14; *Access Copyright* at para 19–20; *Aryan* at para 42). Those limited exceptions extend to materials that (1) provide general background assisting the reviewing court in understanding the issues; (2) demonstrate procedural defects or a breach of procedural fairness in the administrative process; or (3) highlight the complete absence of evidence before the decision maker (*Labrosse v Canada (Attorney General)*, 2022 FC 1792 at para 31, citing *Tsleil-Waututh* at para 98; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263

at paras 23–25; *Access Copyright* at paras 19-20; *Nshogoza v Canada (Citizenship and Immigration)*, 2015 FC 1211 at paras 16–18).

[24] I am of the view that in this case, the filing of Exhibit P-5 can be accepted since the receipts contained in it are being used to establish the procedural defect alleged by Mr. Argüello (*Kumar v Canada (Citizenship and Immigration)*, 2020 FC 935 at para 14). Mr. Argüello stated that the Officer told him that he did not need to provide these documents supporting his income and that she ignored his statements regarding the receipts he had for his additional income in 2019. By filing Exhibit P-5, Mr. Argüello is therefore seeking to establish that he had the documents in his possession. Therefore, Exhibit P-5 is relevant for the Court to rule on the breaches of procedural fairness alleged by Mr. Argüello. That said, the receipts and their contents will not be considered by the Court in analyzing the substantive issues that the Officer was mandated to decide.

B. ***Reasonableness of the Decisions***

[25] Mr. Argüello argues that the CRA miscalculated his net income, since according to his amended income tax return for the 2019 taxation year, he earned a net income of approximately $6,752.

[26] The AGC responds that the Decisions, including the Decision on the CRB, are reasonable and based on the available evidence since Mr. Argüello did not earn an eligible income of at least $5,000 for the 2019, 2020 and 2021 taxation years. The AGC explains that Mr. Argüello had initially reported a net professional income of $3,330 for 2019, and net professional losses of

$12,334 and $4,130 for 2020 and 2021, respectively. Then, on May 16, 2022, Mr. Argüello filed an amended income tax return for his 2019 taxation year to add an amount of $2,924 to his net professional income, so that his net professional income reported would now be approximately $6,254. When making her decision, the Officer had this amended statement in her possession for 2019.

[27] In reading the Officer's notes, the reasoning followed by the Officer with respect to the eligibility of the income earned in 2019 by Mr. Argüello is far from obvious. According to the questions that the Officer asked Mr. Argüello during the telephone calls of September 14 and 20, 2022, the Officer seemed to want to verify the income reported by Mr. Argüello with supporting documents. The second review report—which forms part of the reasons for the Decision on the CRB (*He* at para 30; *Aryan* at para 22)—set out the following questions asked by the Officer during the first call and the answers provided by Mr. Argüello:

> [TRANSLATION]
> How do you intend to demonstrate your gross or net income in 2019? Answer: I don't know.
>
> Why did you amend your 2019 tax return? Answer: I amended it because it was more in line with reality.
>
> The $2,923 added for 2019, is from what work? Answer: People who paid me for translation and Spanish classes.
>
> Invoices? NO.
>
> Receipts? REALLY, I DON'T KNOW.
>
> The taxpayer claims to have been paid, in cash, the amount of $2,923 that he added in his 2019 tax adjustment on 2022-05-27.
>
> (Certified Tribunal Record at p 44.)

[28] Mr. Argüello also told the Officer that he sent all his papers and documents. However, in the second call, the Officer noted in her report that Mr. Argüello also told her that he had receipts to support the $2,924 added to his amended 2019 income tax return. The Officer repeats this observation in her notes and in her review report. It is difficult to understand why these receipts were not sent to the CRA, or why the Officer did not request them or wait for them to be sent before rendering the Decision concerning the CRB. Neither the Officer's affidavit nor Mr. Argüello's affidavit addresses this aspect.

[29] In any event, I am of the opinion that it was not reasonable for the Officer to disregard these receipts after duly noting their existence. Although it is not possible to know the actual reason for the absence of receipts in the CRA file, the Officer did not act reasonably by failing to follow up on any of these additional documents that Mr. Argüello claimed to have in his possession. The file clearly shows, on more than one occasion, that the Officer was aware of the existence of Mr. Argüello's supporting documents. In the Decision on the CRB, she did not explain why she thought it was appropriate to make her decision without having read the receipts to which Mr. Argüello had referred. The Decision does not justify this shortcoming, nor does it indicate why the Officer did not consider it necessary to see these documents, or why they would not have been acceptable even if she had decided to examine them (*Crook v Canada (Attorney General)*, 2022 FC 1670 [*Crook*] at para 20).

[30] However, the guidelines entitled *Confirming CERB, CRB, CRSB, CRCB and CWLB Eligibility* [Guidelines], which govern the conduct of the work of second-examination officers at the CRA, identify the following as "acceptable proof" of self-employment income for the

purposes of various benefits, including the CRB (*Crook* at para 19; Respondent's record at p 505):

> - Invoice for services rendered, for self employed individuals or sub contractors. For example an invoice for painting a house or cleaning services, etc. Must include the date of 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.
>
> …
>
> Any other documentation that will substantiate $5,000.00 in self employment income.

[31] It is undeniable that the receipts to which Mr. Argüello referred in his calls with the Officer appear to belong to this family of "acceptable proof" of income described in the CRA Guidelines. However, the Officer does not explain why the receipts, which she did not review, do not correspond to the wide range of documents considered "acceptable" under the guidelines. Thus, "[a]bsent such an explanation, I conclude the decision does not bear the hallmarks of reasonableness" (*Crook* at para 20).

[32] It is true that the written reasons given by an administrative body must not be assessed against a standard of perfection (*Vavilov* at para 91). Nevertheless, the Court must be satisfied that the administrative decision maker followed an internally coherent reasoning process and that the decision is justified in relation to the facts and law that bear on it (*Vavilov* at para 99). "Where a decision maker's rationale for an essential element of the decision is not addressed in the reasons and cannot be inferred from the record, the decision will generally fail to meet the requisite standard of justification, transparency and intelligibility" (*Vavilov* at para 98). This is

the case here. Considering the factual context of the case and the telephone conversations between the Officer and Mr. Argüello, I am of the view that the failure to consider the receipts, or at least to explain why the Officer did not bother to obtain and consult them despite her knowledge of their existence, prevents the Court from "connect[ing] the dots on the page" (*Vavilov* at para 97) and understanding the Decision on the CRB. I note that this is not a flaw or shortcoming that can be described as "superficial or peripheral to the merits of the decision" (*Vavilov* at para 100). On the contrary, it is an error that makes me lose confidence in the Officer's reasoning and justifies the Court's intervention on judicial review.

[33] Even if I interpret the Decision on the CRB "holistically and contextually" and keep in mind that reviewing courts must seek to "understand the reasoning process followed by the decision maker" to arrive at its conclusion (*Vavilov* at paras 84, 97), I am not persuaded that the Officer could reasonably proceed with the second review while ignoring the fact that Mr. Argüello had claimed to have the receipts to answer her questions about proof of his additional income 2019.

[34] I would add that a reasonable decision must address the key issues or central arguments raised by the parties (*Vavilov* at paras 127–128). Therefore, the fact that the Officer did not, at a minimum, consider the receipts clearly mentioned by Mr. Argüello precludes me from being able to conclude that the Decision on the CRB is defensible in view of the facts and applicable law.

[35] With respect to the CWLB, things are slightly different because of the applicable reference periods. In addition, for the minimum income of $5,000, 2019 is not directly included

in the equation to determine eligibility for these benefits. It is therefore clear, in this case, that Mr. Argüello did not report net income more than $5,000 for periods subsequent to 2019. However, if Mr. Argüello is successful on his additional income for 2019, this will confirm his eligibility for the CRB payments received, adding these amounts to his net eligible income for 2020 or 2021, or both, and thus reaching the $5,000 threshold for these subsequent years.

[36] The second review report also indicates that, in relation to the CWLB, Mr. Argüello had reportedly told the Officer during the call in September 2022 that he was not employed and that he therefore made [TRANSLATION] “a mistake” in his application for the CWLB. The Officer concluded that Mr. Argüello did not meet the second criterion for entitlement to the CWLB, namely, that he was not working due to the consequences of a COVID-19 lockdown. In my view, when the evidence is analyzed holistically and contextually, the Officer’s conclusion that Mr. Argüello had not been prevented from working due to a lockdown under the *Canada Worker Lockdown Benefit Act*, SC 2021, c 26, s 5 seems rather flawed to me. It is clear from the record that Mr. Argüello did not have a stable or regular job, being instead an actor with self-employed status. Furthermore, Mr. Argüello explained his situation to the Officer during the two calls with her. In such circumstances, the Officer had to ask whether the fact that Mr. Argüello was not working and did not find contracts was due to a COVID-19 lockdown, at a time when the entire culture and arts industry had abruptly stopped most of its activities because of the pandemic. She did not do so.

[37] Again, the reasons for the Decision on the CWLB and the Officer’s notes do not allow me to conclude that her analysis is internally coherent and rational. On the contrary, I am of the

view that the Decision on the CWLB, too, is not justified in view of the legal and factual constraints to which the Officer was subject.

[38] Since *Vavilov*, special attention must now be paid to the decision-making process and the justification for administrative decisions. One of the objectives advocated by the Supreme Court of Canada in the application of the reasonableness standard is to "develop and strengthen a culture of justification in administrative decision making" (*Vavilo*v at paras 2, 143). It is not enough for the outcome of a decision to be justifiable, and the decision must also be "*justified* by the decision maker to those to whom the decision applies" [emphasis in original] (*Vavilov* at para 86). Ultimately, a reviewing court "must develop an understanding of the decision maker's reasoning process" and determine "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). Reasons provided by administrative decision makers are the primary mechanism by which administrative decision makers show that their decisions are reasonable—both to the affected parties and to the reviewing courts (*Vavilov* at para 81). Reasons "explain how and why a decision was made", demonstrate that "the decision was made in a fair and lawful manner" and shield against "the perception of arbitrariness in the exercise of public power" (*Vavilov* at para 79). In other words, it is the reasons that demonstrate that a decision is justified.

[39] However, in Mr. Argüello's case, I am not persuaded that the Decisions meet the threshold established in *Vavilov*. I acknowledge that the reasons for an administrative decision need not be exhaustive. However, the reasons must still be understandable and justify the administrative decision. In this case, I am obliged to find that the reasons given in the Officer's

Decisions and notes do not justify these Decisions in a transparent and intelligible way. They in no way allow the Court to understand the basis for the Officer's Decisions and instead suggest that a relevant and fundamental fact has been completely disregarded. The Officer's report does not demonstrate that the CRA carefully reviewed and considered Mr. Argüello's statements and gave him the opportunity to respond and provide evidence of his self-employment income. In short, the Decisions are flawed with serious shortcomings that make them unreasonable in light of the facts and make me lose confidence in the administrative decision maker's findings (*Vavilov* at para 100).

[40] At the hearing, counsel for the AGC relied on *Lalonde v Canada (Revenue Agency)*, 2023 FC 41 [*Lalonde*]. With respect, this decision can be distinguished from the facts of Mr. Argüello's case. First, although the applicant in that matter had been aware of possible errors in her 2019 income tax return since her first discussions with the CRA in June 2021, there was no evidence on file that she had taken any steps to correct these errors by the time she spoke with the second review officer in February 2022 (*Lalonde* at paras 38, 40). In Mr. Argüello's case, he took steps to correct his 2019 income tax return within weeks of becoming aware of an error in his income tax return, that is, following his first discussions with a CRA officer in April 2022.

[41] Furthermore, the applicant in *Lalonde* did not submit any evidence to support her claims that there was an error in her reported income for 2019. In addition, all the evidence indicated that the earned income was rental income rather than self-employment income (*Lalonde* at paras 43, 60, 73). Finally, given the inconsistencies between the file before the CRA and the applicant's testimony, the Court determined that it was reasonable for the review officer to have

doubts about her credibility (*Lalonde* at para 73). As I mentioned at the hearing, there is no evidence in this case that would undermine Mr. Argüello's credibility.

C. *Breach of procedural fairness*

[42] Finally, I turn to Mr. Argüello's procedural fairness argument.

[43] The duty to act fairly has two components: the right to a fair and impartial hearing before an independent panel and the right to be heard (*Fortier* at para 14; *Haba v Canada (Citizenship and Immigration)*, 2017 FC 732 at para 28). The ultimate question "is whether, taking into account the particular context and circumstances at issue, the process followed by the administrative decision maker was fair and offered the affected parties a right to be heard as well as a full and fair opportunity to know and respond to the case against them" (*Tiben v Canada (Citizenship and Immigration)*, 2020 FC 965 at para 18).

[44] Mr. Argüello argues that by failing to consider the documents available to her—the receipts he had disclosed to her—the Officer not only was unreasonable but also refused to give him the opportunity to file additional documents to support his reported income, and that such an act breaches the rules of procedural fairness.

[45] The AGC first argues that the breach of the duty of procedural fairness was not alleged in Mr. Argüello's notice of application for judicial review or in Mr. Argüello's affidavit, and therefore the argument to that effect is not admissible. In any event, the AGC adds, Mr. Argüello

had the opportunity to provide additional documents and information and failed to do so; there is no evidence of a breach of procedural fairness on the part of the CRA.

[46] I do not agree with the AGC. First, and contrary to what the AGC claims, the notice of application for judicial review expressly identifies the following among the grounds in support of the application for judicial review:

> [TRANSLATION]
> The Delegate failed to observe a principle of natural justice or procedural fairness that she was required by law to observe, including:
>
> - while the validation officer in charge of analyzing the first application for review had suggested that the Applicant amend his tax return for 2019, the Delegate refused to consider it;
>
> - by asserting to the Applicant that it was not necessary to provide certain supporting documents that he was prepared to provide to demonstrate that he met the eligibility criteria.

[47] It is therefore indisputable that procedural fairness argument was indeed raised by Mr. Argüello in his notice of application.

[48] In addition, in her second review report, the Officer specifically mentions that Mr. Argüello [TRANSLATION] “claimed that he earned an amount of $2,923 gross in 2019 from Spanish courses and translation services. He also stated that he does not have a T4A for that because he says it was paid as you go or at the end” (Certified Tribunal Record at p 44). However, the second review report also points out that Mr. Argüello had told the Officer in the second call that [TRANSLATION] “he has receipts in the amount of $2,923 for translation and

Spanish courses" (Certified Tribunal Record at p 7), without any further comments from the Officer, as mentioned above.

[49] Again, it is difficult to understand why the Officer did not require these receipts, when her notes clearly indicate that Mr. Argüello had mentioned these documents to her.

[50] It is true that it is up to the applicant to establish a breach of procedural fairness, and here Mr. Argüello's evidence is brief in several respects. However, the CRA's file is equally brief as to the Officer's failure to take any action to obtain the documents referred to by Mr. Argüello. It is impossible for me to reconcile the mention of the receipts in the second review report with the absence of any consideration of them in the CRA file, when the Officer bases her Decision on the CRB on the lack of adequate justification for the additional amount added by Mr. Argüello to his 2019 income tax return. In light of the contents of the record before the Court, I therefore conclude that Mr. Argüello did not have a full and fair opportunity to submit additional documents in the second review and that, by acting as she did, the Officer breached the rules of procedural fairness and prevented Mr. Argüello from having the right to make full answer and defence.

IV. Conclusion

[51] For all these reasons, Mr. Argüello's application for judicial review is allowed. The CRA's analysis of the CRB and CWLB does not bear the hallmarks of transparency, justification and intelligibility, and the Decisions are also tainted by a breach of the rules of procedural fairness.

[52] Considering all the circumstances, I agree with the parties that the applicant is entitled to costs, and that the lump sum award of $500 agreed upon is reasonable and justified.

JUDGMENT in T-2357-22

THIS COURT'S JUDGMENT is as follows:

1. The applicant's application for judicial review is allowed.

2. The decisions dated October 12, 2022, pursuant to which the Canada Revenue Agency [CRA] concluded that the applicant was ineligible for the Canada Recovery Benefit [CRB] and the Canada Worker Lockdown Benefit [CWLB] are quashed.

3. The applicant's case with respect to his CRB and CWLB claims is referred back to the CRA for redetermination by a new officer in accordance with these reasons.

4. The respondent will be required to pay $500 in costs to the applicant.

"Denis Gascon"
Judge

Certified true translation
Michael Palles

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2357-22
STYLE OF CAUSE:	LEO ARGÜELLO v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	JULY 12, 2023
JUDGMENT AND REASONS:	GASCON J.
DATED:	JULY 19, 2023

APPEARANCES:

Léo Argüello	FOR THE APPLICANT (REPRESENTING HIMSELF)
Emmanuelle Rochon	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT