

Federal Court



Cour fédérale

Date: 20240614

Docket: T-1448-23

Citation: 2024 FC 914

[ENGLISH TRANSLATION]

Ottawa, Ontario, June 14, 2024

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

LYSE LABADIE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

WHEREAS the applicant applied for the Canada Emergency Response Benefit [CERB] for a total of seven periods, from March 15, 2020, to September 26, 2020;

WHEREAS the applicant applied for the Canada Recovery Benefit [CRB] for a total of 14 periods, from November 22, 2020, to June 5, 2021;

WHEREAS following the initial review of the benefit claims, on December 9, 2022, the Canada Revenue Agency [CRA] determined that the applicant was not eligible for the CERB and the CRB for all the periods requested;

WHEREAS following the second review of the benefit claims, on January 12, 2023, the CRA again determined that the applicant was not eligible for the CERB and the CRB for all the periods requested;

WHEREAS the applicant sought judicial review of the decisions dated January 12, 2023 (Docket T-230-23), and the parties agreed to refer the decisions back to the administrative decision maker for a third review;

WHEREAS following the third review of the benefit claims, on June 7, 2023, the review officer [the officer] determined that the applicant was not eligible for the CERB for periods 4 to 7, from June 7, 2020, to September 26, 2020, on the grounds that the applicant left her employment voluntarily and that she received Employment Insurance benefits for the same period (decision regarding the CERB);

WHEREAS following the third review of the benefit claims, on June 8, 2023, the CRA determined that the applicant was not eligible for the CRB for all the periods claimed, on the grounds that the applicant did not seek employment (decision regarding the CRB decision);

CONSIDERING the application for judicial review (docket T-1448-23) regarding the CERB decision dated June 7, 2023, and the CRB decision dated June 8, 2023;

CONSIDERING the proceedings and documents filed in T-1448-23;

CONSIDERING the parties' submissions at the hearing of June 6, 2024;

WHEREAS the officer stated in her challenge affidavit that she did not conclude that the applicant had received Employment Insurance benefits for periods 1 to 7 and that the reason [TRANSLATION] "[y]ou received Employment Insurance (EI) benefits for the same period" was added in error in the decision letter dated June 8, 2023;

WHEREAS the respondent acknowledges that the decision with regard to the CERB is unreasonable and requests that this matter be referred back to another reviewing officer;

CONSIDERING the CRA's lack of attention in dealing with the CERB application for the third time, including the inconsistency between the officer's reasons indicating that the applicant was eligible for periods 1 to 4 of the CERB and the decision issued on the same day;

WHEREAS the officer accepted that the applicant did not leave her employment voluntarily, that her employer did not ask her to resume her employment as a nanny, and the respondent did not point to another valid basis for rejecting her CERB application;

WHEREAS the question of remedy in a judicial review must be guided by concerns related to the proper administration of the justice system, the need to ensure litigants access to justice and the goal of expedient and cost-efficient decision making (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 140 [*Vavilov*]), and where a situation conflicts with these concerns, it is appropriate, when an outcome is inevitable, not to remit a matter to the administrative decision maker (*Vavilov* at para 142). Rather, a reviewing judge may return a matter with a direction in the form of an order to compel the decision maker to make the appropriate decision, thereby indirectly substituting the judge's view through a declaration (*Canada (Citizenship and Immigration) v Tennant*, 2019 FCA 206 at paras 72–75);

WHEREAS the applicant admitted at the first, second and third reviews that she did not seek employment or work, and the officer should have properly concluded that the applicant did not meet the condition of seeking employment or work under subparagraph 3(1)(d)(i) of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2.

JUDGMENT in T-1448-23

THIS COURT ORDERS as follows:

1. The application for judicial review of the decision regarding the Canada Emergency Response Benefit [CERB] dated June 7, 2023, is allowed and the issue of Ms. Labadie’s eligibility for the CERB is referred back to the Canada Revenue Agency for reconsideration by another officer on the basis of these reasons and in accordance with the following directions: the new officer will have to determine whether the applicant is eligible for the CERB for all the periods claimed, that is, periods 1 to 7, from March 15, 2020, to September 26, 2020.
2. The application for judicial review of the decision regarding the Canada Recovery Benefit dated June 8, 2023, is dismissed.
3. Without costs.

“Roger R. Lafrenière”

Judge

Certified true translation
Daniela Guglietta

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1448-23

STYLE OF CAUSE: LYSE LABADIE v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: QUÉBEC, QUEBEC

DATE OF HEARING: JUNE 6, 2024

JUDGMENT AND REASONS: LAFRENIÈRE J

DATED: JUNE 14, 2024

APPEARANCES:

Lyse Labadie

FOR THE APPLICANT
(ON HER OWN BEHALF)

Anne-Élizabeth Morin

FOR THE RESPONDENT

SOLICITORS OF RECORD:

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FOR THE RESPONDENT