

Federal Court



Cour fédérale

Date: 20240925

Docket: T-943-24

Citation: 2024 FC 1507

Toronto, Ontario, September 25, 2024

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

GURMINDER KAUR DEOL

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicant seeks judicial review of a Canada Revenue Agency (“CRA”) decision dated March 18, 2024 (the “Decision”) denying the Applicant’s application for the Canada Recovery Caregiving Benefit (“CRCB”).

[2] The CRCB was part of a package of measures introduced by the Government of Canada in response to COVID-19. It provided direct financial support to eligible Canadian residents who were directly affected by the COVID-19 crisis.

[3] The Decision found that the Applicant was not entitled to the CRCB because she did not meet the *Canada Recovery Benefits Act*, SC 2020, C 12, s.2 (“CRBA”) s. 17(1)(f) criteria of:

- a) being unable to work for at least 50% of the time she would have otherwise worked in that week because she was caring for a family member for reasons related to COVID-19; and
- b) being employed or self-employed the day before her application.

[4] For the reasons that follow, the application for judicial review is dismissed.

II. Background

[5] The facts are aptly set out in the Respondent’s Memorandum at paragraphs 4 to 12, which I have summarized below:

[6] The Applicant, Gurminder Kaur Deol, applied for and received the CRCB for the following periods: Periods 1 to 24 (September 27, 2020 to March 13, 2021); Periods 29 to 33 (April 11, 2021 to May 15, 2021); and Periods 84 (May 1, 2022 to May 7, 2022), (together, the “Periods”).

[7] On May 29, 2022, the Applicant submitted her 2021 Assessment to the CRA.

[8] On July 22, 2022, a CRA Agent spoke with the Applicant via telephone to confirm her work history and clarify her eligibility. The Applicant advised that she was working in a plastic factory when she became pregnant, and her doctor stopped her from working in September 2020.

[9] On July 29, 2022, a denial letter was sent to the Applicant notifying her that she was not eligible for the CRCB as she did not earn at least \$5,000 (before taxes) of employment or net self-employment income in 2019, 2020, 2021, or in the 12 months before the date of her first application.

[10] On September 16, 2023, the Applicant submitted her My Service Canada Account printouts showing her Past Claim Details for parental benefits.

[11] On February 23, 2024, a second reviewer spoke with the Applicant by telephone. The Applicant clarified her maternity leave and employment history. She stated that she was unemployed from April 2020 to March 2021, then worked from March 21, 2021 to April 9, 2021 but was let go for reasons not related to COVID-19. Her maternity leave then started on May 16, 2021 and ended on April 30, 2022. She was unable to find employment until August 12, 2022. She advised that she was not able to return to work when her maternity leave ended as her childcare person was out of the country and unable to return due to COVID-19, and then was sick upon her return.

[12] On March 19, 2024, the Applicant was advised by letter that she was not eligible for the CRCB for the Periods.

[13] The Decision reads:

Based on our review, you are not eligible. You did not meet the following criteria:

- Your scheduled work week was not reduced by at least 50% because you were caring for a family member for reasons related to COVID-19.
- You were not employed or self-employed on the day before your first application period.

III. Preliminary Issue

[14] As a preliminary matter, the Respondent submits that the Applicant has named the incorrect Respondent in this matter, as neither the CRA Officer, Troy M, nor Canada Revenue Agency are directly affected by the order being sought in the application (*Federal Courts Rules*, SOR/98-106, s.303(1)(a); *Kleiman v Canada (Attorney General)*, 2022 FC 762 at para 10). The proper Respondent is the Attorney General of Canada.

[15] I agree and the style of clause is hereby amended to name the Attorney General of Canada as the Respondent.

IV. Issue

[16] The only issue that arises from this judicial review is whether the Decision was reasonable.

V. Analysis

[17] The standard of review with respect to the Officer's substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 16-17).

[18] The Applicant has the burden of establishing that the Officer's Decision is unreasonable (*Vavilov* at para 100; *Aryan* at para 45).

[19] The *CRBA* requires that an applicant must attest they meet all the eligibility requirements for the *CRCB* referred to in paragraphs 17(1)(a) to (i). This includes the requirements at section 17(1)(f), that the applicant is unable to work or had to reduce the time devoted to their work for at 50% of the time the applicant would have worked in the applicable week, and that the applicant was employed or self- employed.

[20] The Applicant argues that the Decision is unreasonable because: (1) the Officer disregarded the evidence surrounding childcare and maternity benefits; and (2) it lacks transparency and intelligibility because it does not explain that you cannot apply for *CRCB* if you are on maternity leave.

[21] Having reviewed the record, I am satisfied that the Second Reviewer was aware of and considered all of the evidence before them. While the Applicant raises childcare related to step-children for the first time in her memorandum, I find it reasonable to assume that the Applicant's submissions to the Officer on childcare included childcare related to these step- children. In any

event, the evidence on the Applicant's childcare was irrelevant to the reason why she was deemed ineligible to receive the CRCB.

[22] As for the Applicant's complaint with respect to the Decision not informing her that she cannot apply for CRCB if on maternity leave, it is sufficient that the Decision informed the Applicant that she did not meet the criteria of being employed on the day prior to her application. I also note that the Applicant was not employed before her maternity leave.

[23] I agree with the Respondent that it was not unreasonable for the Officer to conclude that the Applicant was not eligible for CRCB for the reasons identified. The evidence shows the following with respect to the relevant periods:

- a) Periods 1 to 24 (September 27, 2020 to March 13, 2021): The Applicant attested that she was not employed the day before September 27, 2020. The Applicant was either unemployed from April 2020 to March 2021, or was working until September 2020.
- b) Periods 29 to 33 (April 11, 2021 to May 15, 2021): While the Applicant was working for the month before applying for CRCB, the Applicant stated that she was let go for reasons not related to COVID-19; and
- c) Period 84 (May 1, 2022 to May 7, 2022): The Applicant had been on maternity benefits until April 30, 2022 and was not employed at the end of the maternity benefits period.

[24] Thus, for the relevant Periods, the CRA officer reasonably concluded that the Applicant was not eligible for the CRCB. With respect to Periods 1 to 24 and 84, the Applicant was not an employee, as she was not employed the day before she applied for the CRCB. With respect to Periods 29 to 33, her work-week was not reduced for reasons related to COVID-19, as admitted by the Applicant.

[25] The issues raised by the Applicant do not materially impact the Decision. The evidence as to childcare and maternity leave are not relevant because the Applicant did not meet the threshold requirement of being an employee, as required under section 17(1)(f). Only after this is met is the evidence of childcare and reduced work week relevant to the assessment under section 17(1)(f).

[26] Lastly, the Applicant also argues that after her maternity leave ended in April 2022, she was unable to find work because she had to take on childcare responsibility for reasons related to COVID-19. However, I note that the wording in s. 17(1)(f) require that the applicant “as an employee, have been unable to work for at least 50% of the time they would have otherwise worked that week” [my emphasis]. Given that the Applicant was not working prior to her maternity leave, it reasonably follows that she was not scheduled to work for the claimed Periods. Therefore, I find it was reasonable for the Officer to find that there was no evidence that the Applicant had their work-week reduced by at least 50% (*Levesque v Canada (Attorney General)*, 2023 FC 997 at para 40).

[27] I understand that this is an unfortunate conclusion for the Applicant; however, the CRA Officer and this Court are bound by the legal framework in the *CRBA* and the standard of review on judicial review. The Decision is reasonable based on the evidence before the Officer.

VI. Conclusion

[28] The application for judicial review is dismissed.

[29] The style of cause should be amended to reflect the Attorney General of Canada as the appropriate Respondent pursuant to Rule 303(2).

JUDGMENT in T-943-24

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.
2. The style of cause is hereby amended to name the Attorney General of Canada as the Respondent.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-943-24

STYLE OF CAUSE: GURMINDER KAUR DEOL v ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 23, 2024

JUDGMENT AND REASONS: MANSON J.

DATED: SEPTEMBER 25, 2024

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(SELF-REPRESENTED)

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FOR THE RESPONDENT

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