

Federal Court



Cour fédérale

Date: 20230223

Docket: T-622-22

Citation: 2023 FC 262

Ottawa, Ontario, February 23, 2023

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

BOBBY PRASAD

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Bobby Nilesh Prasad (“Mr. Prasad”), applied for the Canada Recovery Benefit [CRB]. The Canada Revenue Agency [CRA] determined he was not eligible because he did not meet the minimum income requirement of \$5,000 in 2019, 2020, or the 12 months before the date of his first application. Mr. Prasad requested a second review. A CRA manager in Canada Emergency Benefits Validation (“Manager”) asked Mr. Prasad for additional documents

to verify his income. The Manager did not give Mr. Prasad a deadline to provide these documents. Over the course of the next few weeks, Mr. Prasad left several voicemails for the Manager to explain that he was in the process of obtaining the documents. Approximately three weeks after the Manager requested the additional documents from Mr. Prasad, his application was refused for not meeting the income eligibility criterion. On the same day that Mr. Prasad received the letter refusing his application, he had filed the requested documents with the CRA.

[2] The determinative issue in this judicial review is whether the CRA breached procedural fairness by not giving Mr. Prasad a genuine opportunity to respond to its concerns. I agree with Mr. Prasad that the manner in which his application was handled was unfair. Mr. Prasad attempted to respond to the CRA's concerns, was given no deadline to file documents, and, despite proactively attempting to advise the CRA on his progress in obtaining the requested documents, his application was refused without further notice regarding the documents requested. The application for judicial review is allowed and sent back to be redetermined by a different decision-maker.

II. Analysis

[3] The CRB provided direct financial support to eligible people residing in Canada and affected by the COVID-19 pandemic for any two-week period between September 27, 2020 and October 23, 2021. Residents had to meet the eligibility requirements for each of the two-week periods. The eligibility requirement at issue in this judicial review is the income eligibility requirement. Paragraphs 3(1)(d) to (f) of the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2

[CRB Act] requires an applicant to demonstrate that they had a total income of at least \$5,000 in 2019, 2020, or in the 12 months before the date of their first application.

[4] Mr. Prasad submitted that he worked for Islam Trucking Ltd. from January to March 2020, earning \$13,000 during this period. Mr. Prasad applied for the CRB after losing his work because of the COVID-19 pandemic. Mr. Prasad provided a 2020 T4A that showed \$13,000 in fees for services and had a redacted Payer's Account Number. When Mr. Prasad called the CRA to follow up on his CRB application, a CRA agent informed him that additional documents were needed to verify his income and asked him to submit bank statements. Mr. Prasad advised the CRA that he could not provide bank statements to show his income because he cashed his cheques at a Money Mart. The CRA asked Mr. Prasad to submit a Record of Employment form if he was an employee or invoices and documentation of payment for services if he was self-employed.

[5] In a letter dated July 12, 2021, the CRA informed Mr. Prasad that he was not eligible for the CRB because he did not meet the income eligibility criterion.

[6] Mr. Prasad requested a second review of his CRB application in August 2021. On August 9, 2021, he submitted a letter stating that he had filed his 2020 income tax return a week prior and enclosing a copy of his 2020 T4A and a letter from his employer confirming his employment. The employment letter says that Mr. Prasad was subcontracted by Islam Trucking Ltd. as a maintenance specialist from January 1, 2021 to March 10, 2021. After his August 2021 request for a second review, Mr. Prasad called the CRA several times to ask about the status of

the second review. The CRA told Mr. Prasad that his application was in the queue and would be processed on a first in, first out basis.

[7] On January 27, 2022, the Manager called Mr. Prasad to discuss the second review. The Manager informed Mr. Prasad that his employment letter incorrectly lists the employment dates as January to March 2021 instead of 2020, that the Payer's Account Number on his T4A is redacted, and that his 2020 T4A was not filed with his 2020 income tax return. Mr. Prasad said he did not know why his accountant did not file the 2020 T4A with his 2020 income tax return. The Manager asked Mr. Prasad to submit a corrected employment letter with an explanation for the error and an unredacted 2020 T4A. Mr. Prasad asserts, and the Respondent does not dispute, that the Manager did not give him a deadline for submitting the requested documents.

[8] Mr. Prasad submits that he contacted his former employer and his accountant to obtain the documents the Manager requested, but that he encountered delays in the process. Mr. Prasad further states that he called the CRA and left voicemail messages updating on his progress in obtaining the documents but did not hear back from anyone at the CRA.

[9] Approximately three weeks later, before receiving the requested documents, the Manager refused Mr. Prasad's CRB application, finding that he did not meet the income eligibility requirement. The Manager's second review report is dated February 17, 2022. The Manager informed Mr. Prasad of the refusal by letter dated February 22, 2022. On that same day, Mr. Prasad uploaded to his MyCRA Account a corrected employment letter listing his employment dates as January to March 2020, a letter explaining the error in the first employment letter, his

2020 Tax Return Summary, and an unredacted 2020 T4A. The employment letter, 2020 T4A, and 2020 Tax Return Summary show that the Mr. Prasad earned \$13,000 in income in 2020.

[10] The Manager requested a number of documents from Mr. Prasad. Section 6 of the *CRB Act* requires that an applicant provide the Minister with any information that the Minister may require in respect of the CRB application. The issue here is not the Manager's request. Rather, it is that the Manager failed to give Mr. Prasad a meaningful opportunity to respond to the request for further documentation. The Minister gave Mr. Prasad no deadline to provide the documents; nor was there any response to Mr. Prasad's updates on obtaining the documents. It was not fair in these circumstances to dismiss Mr. Prasad's application without giving him a real opportunity to provide the further requested documentation.

[11] The application for judicial review is allowed. No costs are awarded.

[12] Finally, at the request of the Attorney General, and in accordance with Rule 303 of the *Federal Courts Rules*, SOR/98-106, the title of the proceedings shall be amended to name the Attorney General of Canada as the Respondent in this application.

JUDGMENT IN T-622-22

THIS COURT'S JUDGMENT is that:

1. The title of proceedings is amended immediately to name the Attorney General of Canada as the Respondent;
2. The application for judicial review is allowed; and
3. No costs are awarded.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-622-22

STYLE OF CAUSE: BOBBY PRASAD v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 7, 2022

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: FEBRUARY 23, 2023

APPEARANCES:

Bobby Nilesh Prasad

FOR THE APPLICANT,
ON HIS OWN BEHALF

Lalli Deol

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Vancouver, British Columbia

FOR THE RESPONDENT