

Federal Court



Cour fédérale

Date: 20240403

Docket: T-1124-23

Citation: 2024 FC 518

Calgary Alberta, April 3, 2024

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

KAP PALMER

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Kap Palmer, is a self-represented individual who seeks judicial review of the Canadian Revenue Agency's ("CRA") decision dated May 9, 2023, finding him ineligible for the Canada Recovery Benefit Program ("CRB"). Based on a review of Mr. Palmer's eligibility for the CRB, a Benefits Compliance Officer ("Officer") determined that he was ineligible as he

failed to demonstrate that he met the \$5,000 requirement in employment or net self-employment income (the “Decision”).

[2] Mr. Palmer submits that the Decision is unreasonable because the Officer failed to review the relevant evidence establishing that he made the requisite minimum of \$5,000.

[3] I am mindful of the fact that Mr. Palmer is a self-represented litigant and I have kept in due regard the Canadian Judicial Council’s *Statement of Principles on Self-represented Litigants and Accused Persons* (2006) (“CJC Statement”), which the Supreme Court endorsed in *Pintea v Johns*, 2017 SCC 23 at paragraph 4.

[4] For the following reasons, I find that the Decision is reasonable. This application for judicial review is dismissed.

II. Analysis

A. *Background*

[5] The CRB was implemented through the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 (“*CRB Act*”). The CRB was created to provide income support for any two-week period beginning on September 27, 2020 and ending on October 23, 2021, to eligible employed and self-employed individuals who were adversely affected by the COVID-19 pandemic (*Kleiman v Canada (Attorney General)*, 2022 FC 762 (“*Kleiman*”) at para 2).

[6] Mr. Palmer applied for and received CRB payments in the amount of \$1,000 for twenty two-week periods beginning on September 27, 2020, and ending on July 31, 2021.

[7] Mr. Palmer provided two “Statement of Investment Income” T5 slips that stated he had made eligible dividends of \$8,000 from Pal-Tec Group Incorporated (“Pal-Tec”) in 2020 to support that he had met the \$5,000 income threshold.

[8] Mr. Palmer has had several decisions made on his CRB applications. This includes a decision dated November 10, 2021, finding him ineligible for not meeting the basic income threshold. This decision was confirmed upon second review on June 21, 2022. Upon application for judicial review, the matter was settled and Mr. Palmer’s file remitted for reconsideration. This process occurred a second time throughout 2022, with Mr. Palmer’s file again being eventually remitted for reconsideration upon consent from the Minister.

[9] Between December 2022 and March 2023, the CRA reconsidered Mr. Palmer’s application. This included numerous phone calls between the CRA and Mr. Palmer, with the CRA inquiring about Mr. Palmer’s income and requesting further documentation to support that he made \$8,000 in 2020 as alleged.

[10] In a decision dated May 9, 2023, the Officer found that Mr. Palmer was ineligible for CRB because he had not established that he had met the \$5,000 minimum in 2019, 2020, or the 12 months preceding the date of his first application. The Officer found that the Pal-Tec dividends did not constitute income for the purposes of CRB.

[11] It is this Decision that is at issue in this application for judicial review. As this Court has previously explained, an officer's reasons for a decision includes the second review report and the notepad entries made by CRA officers throughout the course of review (*Crook v Canada (Attorney General)*, 2022 FC 1670 at para 14, citing *Aryan v Canada (Attorney General)*, 2022 FC 139 at para 22 and *Kleiman* at para 9).

[12] The Officer acknowledged various documents provided by Mr. Palmer to support his claim, including bank statements from Pal-Tec issuing Mr. Palmer \$8,000 in credit card cheques and bank statements from Mr. Palmer showing deposits of these cheques, as well as Mr. Palmer's "Statement of Investment Income" slips and a letter from the president of Pal-Tec denoting that it is a corporation separate from its shareholders.

[13] The Officer's notepad entry concluded that:

You did not earn at least \$5,000 (before taxes) of employment or net self-employment income in 2019, 2020, or in the 12 months before the date of your first application... Tax payer states that they were paid by Pal Tec Group with a T5 in 2020. Tax payer stated that they incorrectly filed their T5 and didn't know the difference between Non Eligible Dividends and Eligible Dividends. When asked to show proof that the tax payer earned this money as working income in 2019, 2020 or 12 months before the first date of their CRB application, the tax payer submitted bank statements from The Pal Tec Group showing Credit Card Cheques being issued and then deposited into Kap Palmers personal bank account.

[...]

The tax payer mentioned that they've been issuing cheques from their line of credit for years. When asked where the cheque amounts came from the tax payer stated that they were retained earnings and they earned this amount from over 30 years of working. The tax payer is unable to provide documents (sales

receipts, invoicing, accounting program overview) to prove that work was completed in 2019, 2020 or 12 months from the first date of application. Retained earnings from previous years does not prove that this income is from self-employment or employment income. With the information on file, we are unable to determine if the amounts deposited from Pal Tec Group are earnings from work completed in 2019, 2020 or 12 months from the first date of application.

B. *Issue and Standard of Review*

[14] The sole issue in this application is whether the Decision is reasonable.

[15] The standard of review for the Decision is reasonableness (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paras 16-17, 23-25; *Hu v Canada (Attorney General)*, 2022 FC 1678 at paras 14-15).

[16] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13; 75; 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[17] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

[18] Mr. Palmer submits that he met the \$5,000 minimum income threshold for the CRB, having made \$8,000 in self-employment income through the Pal-Tec dividends.

[19] The Respondent submits that the Officer, upon acknowledging the evidence and finding it insufficient to demonstrate self-employment, reasonably concluded that Mr. Palmer had not met the \$5,000 income threshold for the CRB. The Respondent maintains that the Officer reasonably found that the letter provided explaining the dividend’s provenance did not demonstrate “sales completed, invoicing given, or where the money was earned from the credit card cheques” and that Mr. Palmer had not demonstrated he had been working in 2019 or 2020. The Respondent submits that the Decision is consistent with CRA guidelines stating which forms of income are acceptable for the CRB.

[20] I commend Mr. Palmer for arguing his case before this Court as a self-represented litigant, which can present unique challenges and may be overwhelming for certain individuals (CJC Statement at 3). However, I cannot agree that the Decision is unreasonable.

[21] The Officer found that the evidence of the Pal-Tec dividends was insufficient to establish that Mr. Palmer had worked in 2019, 2020, or the 12 months prior to his first CRB application. The Officer further acknowledged that the letter providing that Pal-Tec was a distinct legal organization that could distribute its money did not prove when the income was earned, nor did it provide “sales completed, invoicing given, or where the money was earned from the credit card cheques.”

[22] CRA officers are entitled to reject CRB applications when applicants provide insufficient documentation to substantiate their eligibility (*Singh v Canada (Attorney General)*, 2024 FC 51 at para 37, citing *Hayat v Canada (Attorney General)*, 2022 FC 131 at para 20) and must be satisfied that the income was from 2019, 2020, or the 12-month period preceding the day on which an applicant makes their application (*CRB Act*, s 3(1)). I cannot find the Officer made an unreasonable decision for abiding by these legal requirements.

III. **Conclusion**

[23] This application for judicial review is dismissed. The Officer’s decision is reasonable.

[24] At the hearing, counsel for the Respondent informed the Court that they would not be seeking costs. As such, there are no costs against Mr. Palmer.

JUDGMENT in T-1124-23

THIS COURT'S JUDGMENT is that this application for judicial review is dismissed without costs.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1124-23

STYLE OF CAUSE: KAP PALMER v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: WINNIPEG, MANITOBA

DATE OF HEARING: MARCH 19, 2024

JUDGMENT AND REASONS: AHMED J.

DATED: APRIL 3, 2024

APPEARANCES:

Kap Palmer
(on his own behalf)

FOR THE APPLICANT

Darren Grunau

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Winnipeg, Manitoba

FOR THE RESPONDENT