

Federal Court



Cour fédérale

Date: 20240812

Docket: T-396-23

Citation: 2024 FC 1252

Toronto, Ontario, August 12, 2024

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

TEODOR NOVAKOVIC

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Teodor Novakovic [the Applicant], seeks judicial review of Canada Revenue Agency [CRA] decisions related to his eligibility for the Canada Emergency Response Benefit [CERB] and Canada Recovery Benefit [CRB].

[2] The Respondent has appropriately conceded that the decisions were arrived at in a procedurally unfair manner. Even with this concession, the parties do not agree on how to resolve this application.

[3] The Respondent asks the Court to make the typical order remitting the matter back to the CRA for redetermination. The Applicant argues that the errors committed by the CRA are significant and reveal “systemic errors and/or organizational bias” and in the absence of significant changes to the Agency’s “policy/procedures/work instructions” and “increased accountability,” he believes the Court should intervene to avoid a “vicious cycle of reviews and judicial reviews.” The Applicant therefore asks the Court to make an order reinstating the Applicant’s CERB and CRB eligibility for the years 2020 and 2021.

[4] I agree with the Respondent that this matter should be remitted back to a different officer of the CRA. While this Court has the power to substitute its own decision on the merits, it is in very limited scenarios where, for example, a particular outcome is “inevitable” or where remitting the matter would prevent the effective and timely resolution of the matter (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 140-142). I find that neither of these scenarios have been made out. The Applicant argues that the CRA should have found him eligible as he provided documentation showing eligible income levels and sources, a reduction in his income tied to COVID and the requisite reduction in his earned income. While the Applicant does not expect a different outcome from a second review as he says he has no further documents or explanations to provide, he may nonetheless still be able to answer any concerns the CRA may have with his eligibility. The bottom line is that the CRA has the specialized expertise to make these determinations and calculations and it is the entity chosen by Parliament to make them. Accordingly, this application for judicial review is granted and the matter shall be remitted back to a different CRA officer for redetermination.

[5] There shall be no order as to costs.

[6] The Attorney General of Canada is the proper respondent to this application and the style of cause shall be amended to reflect this.

JUDGMENT in T-396-23

THIS COURT'S JUDGMENT is that:

1. The style of cause shall be amended to name the Attorney General of Canada as the proper respondent to this proceeding;
2. The application for judicial review is allowed;
3. The matter is returned for redetermination by a different decision-maker; and
4. There is no order as to costs.

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-396-23

STYLE OF CAUSE: TEODOR NOVAKOVIC v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD BY WAY OF ZOOM VIDEOCONFERENCE

DATE OF HEARING: AUGUST 12, 2024

JUDGMENT AND REASONS: WHYTE NOWAK J.

DATED: AUGUST 12, 2024

APPEARANCES:

Teodor Novakovic

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Mengjiao Liu

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT