

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251023

Docket: A-195-24

Citation: 2025 FCA 190

**CORAM: RENNIE J.A.
GLEASON J.A.
LOCKE J.A.**

BETWEEN:

DAVID PELLETIER

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Calgary, Alberta, on October 21, 2025.

Judgment delivered at Ottawa, on October 23, 2025.

REASONS FOR JUDGMENT BY:

LOCKE J.A.

CONCURRED IN BY

**RENNIE J.A.
GLEASON J.A.**

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REASONS FOR JUDGMENT

LOCKE J.A.

[1] David Pelletier appeals a decision of the Federal Court (2024 FC 506, the Decision) that dismissed his application for judicial review of a decision of the Canada Revenue Agency (CRA). The CRA's decision required that Mr. Pelletier repay benefits that he received under the Canada Recovery Benefit (CRB) in respect of a two-week period in November 2020 because he received employment insurance (EI) benefits during the same period.

[2] Mr. Pelletier notes that he applied for CRB benefits only after his EI benefits stopped. He criticizes the CRA for erroneously paying him CRB benefits retroactively to a period during which he had received EI benefits. He argues that, since the error was CRA's and he was blameless, he should not have to repay the CRB benefits in question. Unfortunately, I am unaware of any authority to support this argument, and I conclude that it cannot prevail. Paragraph 3(1)(g) of the *Canada Recovery Benefits Act*, S.C. 2020, c. 12 (*CRB Act*), provides that a person may not receive CRB benefits for any two-week period during which they were entitled to EI benefits for all or a portion of those two weeks. In the absence of some authority to the contrary, any overpayment of CRB benefits to Mr. Pelletier must be repaid regardless of the cause of the overpayment. Though I am sympathetic to the difficulty Mr. Pelletier faces in repaying the CRB benefits in question, it is not in this Court's power to decide otherwise.

[3] Mr. Pelletier also argues that the CRA should have applied section 9.1 of the *CRB Act* to permit him to receive partial CRB benefits during the period that he was also receiving EI benefits. Section 9.1 was enacted on June 29, 2021 as an amendment to the *CRB Act* to introduce an exception to the general rule contemplated in paragraph 3(1)(g) mentioned above. Section 9.1 was deemed to have come into force earlier on June 19, 2021, but there is no provision for it to apply as early as late 2020, when Mr. Pelletier received the CRB benefits in question.

[4] Mr. Pelletier refers to paragraph 18 of the Decision, which states that section 9.1 applies only to "those who received the CRB benefit prior to June 19, 2021" (emphasis added). He argues that the Federal Court erred in failing to recognize that he did receive the CRB benefit prior to June 19, 2021. He notes that he even raised this point in a letter to the Federal Court

shortly after the Decision was released, but that the Registry refused to receive the letter. In my view, the quoted passage from paragraph 18 of the Decision cannot assist Mr. Pelletier. The use of the words “prior to” was clearly a slip of the pen. Read in the context of the decision as a whole, it is clear that the Federal Court intended to say “on or after” instead of “prior to”. The Federal Court stated explicitly later in paragraph 18 that section 9.1 did not apply to Mr. Pelletier’s situation due to the timing of his CRB benefits. I agree. Contrary to Mr. Pelletier’s argument, section 9.1 applies based on when the CRB benefit was paid, not when the CRA sought repayment. For section 9.1 to assist Mr. Pelletier, it would have to be deemed to apply back to November/December 2020 when the CRB benefit was paid. Ultimately, Parliament made a decision concerning which CRB benefits would be covered by section 9.1, and this Court has no power to question that decision.

[5] Mr. Pelletier expresses frustration that the Federal Court first sought written submissions from the parties on section 9.1 (because it found that the provision favoured him) and then concluded that it did not favour him. Having reviewed the information available on the record, and being generally aware of court practice, I am satisfied that the Federal Court sought written submissions on section 9.1 not because it had reached any conclusion on its impact and whether it favoured Mr. Pelletier, but on the contrary, because it wanted to consider the parties’ submissions on the subject before reaching such a conclusion. It appears to me that the Federal Court never concluded that section 9.1 favoured Mr. Pelletier.

[6] Mr. Pelletier further argues that he was denied procedural fairness in various respects before the CRA. I disagree. The values that underlie the duty of procedural fairness relate to the

principle that those affected should have the opportunity to present their case fully and fairly, and have decisions affecting their rights, interests or privileges made using a fair, impartial and open process, appropriate to the statutory, institutional and social context of the decision: *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at para. 28. Mr. Pelletier's arguments on this issue are directed largely to the merits of the CRA's decision rather than the fairness of the process. For instance, Mr. Pelletier takes issue with the Federal Court's conclusion at paragraph 19 of the Decision that "[t]he fact that the CRA did not consider section 9.1 does not amount to a breach of procedural fairness since this section does not apply to Mr. Pelletier's case." The Federal Court might also have asked whether the CRA's silence on section 9.1 made its decision unreasonable. Either way, that provision clearly does not apply to Mr. Pelletier, and any discussion of the provision by the CRA would not have changed its decision. The CRA's silence on section 9.1 was not procedurally unfair. It also did not make its decision unreasonable.

[7] To the extent that Mr. Pelletier takes issue with any of the procedures that the CRA followed, I see no denial of procedural fairness. While I have sympathy for the challenges that Mr. Pelletier faces (and has faced) as a party appearing before the CRA and the courts lacking in knowledge of the law and without the assistance of counsel, they do not amount to a denial of procedural fairness in the circumstances of this appeal.

[8] Finally, Mr. Pelletier seeks reimbursement of the \$50.00 fee that he paid to file his notice of appeal. He notes that the filing fee was waived at the Federal Court, and he argues that the same should have been done in this appeal. Mr. Pelletier initially sought a fee waiver in a letter

that he submitted on April 26, 2024 with his notice of appeal. This Court refused to act on Mr. Pelletier's letter and issued a Direction on May 13, 2024 requiring that the fee waiver request be made in a formal motion. Mr. Pelletier brought no such motion and instead paid the fee. Again, I have sympathy for Mr. Pelletier's position, but his request now for a waiver of the filing fee before this Court amounts to a collateral attack on this Court's previous refusal to consider a fee waiver in the absence of a formal motion. It would be inappropriate to consider this request at this stage.

[9] For the foregoing reasons, I would dismiss the appeal. In the circumstances of this case, I would make no award as to costs.

"George R. Locke"
J.A.

"I agree.
Donald J. Rennie J.A."

"I agree.
Mary J.L. Gleason J.A. "

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-195-24

STYLE OF CAUSE: DAVID PELLETIER v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: OCTOBER 21, 2025

REASONS FOR JUDGMENT BY: RENNIE J.A.

CONCURRED IN BY: GLEASON J.A.
LOCKE J.A.

DATED: OCTOBER 23, 2025

APPEARANCES:

David Pelletier FOR THE APPELLANT
ON HIS OWN BEHALF

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