

Federal Court



Cour fédérale

Date: 20221201

Docket: T-1460-22

Citation: 2022 FC 1654

[ENGLISH TRANSLATION]

Montréal, Quebec, December 1, 2022

PRESENT: The Honourable Mr. Justice Lafrenière

Docket: T-1460-22

BETWEEN:

JOSEPH AWID

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Joseph Awid, is seeking judicial review of the decision by a Canada Revenue Agency [CRA] officer, determining that, further to a second review, Mr. Awid was not eligible for the Canada Recovery Benefit [CRB].

[2] For the reasons below, I find that the officer's decision was not unreasonable and that the application must be dismissed.

Background and facts

[3] The CRB was introduced by the *Canada Recovery Benefits Act*, SC 2020, c 12, s 2 [Act] in order to provide financial assistance to employees and self-employed workers directly affected by the COVID-19 pandemic who were not entitled to Employment Insurance benefits.

[4] In 2020 and 2021, Mr. Awid received CRB payments based on applications he submitted to the CRA. In these applications, he stated that he had earned exactly \$5,000 in net business income in 2019 in exchange for services rendered to a butcher shop, Boucher Grill, in addition to employment income of \$212.72.

[5] On November 16, 2021, Mr. Awid's CRB file was assigned to an officer to verify whether he met the eligibility criteria under the Act.

[6] On November 19, 2021, after a first review, the CRA informed Mr. Awid that he was not eligible for the CRB for the periods from September 27, 2020, to November 7, 2020, and from December 6, 2020, to April 24, 2021.

[7] On June 15, 2022, a CRA officer conducted a second review further to Mr. Awid's request.

[8] During her review, the officer consulted the information available in the CRA's electronic registry and the documents Mr. Awid provided, including:

- i. An invoice addressed to 9317-3920 Quebec Inc (Boucher Grill) for 2019 with Mr. Awid's contact information in the letterhead;
- ii. A receipt signed by Mr. Awid, dated December 27, 2019; and
- iii. A letter dated December 27, 2019, with 9317-3920 Québec Inc's contact information in the letterhead.

[9] The officer gave Mr. Awid a chance to provide other supporting documents to show his 2019 butcher's income but he was unable to provide any additional evidence.

[10] After a second review, the officer confirmed that Mr. Awid was not eligible for the benefits. The reason stated in the refusal letter was: [TRANSLATION] "you did not earn at least \$5,000 (before taxes) in employment or self-employment income in 2019, in 2020 or during the 12 months preceding the date of your first application".

[11] The officer relied on the following facts to reach this conclusion:

- A. In 2018 and in 2019, for these two consecutive years, the applicant reported earnings of exactly \$5,000 to the CRA;
- B. \$5,000 per year of net business income;
- C. The applicant stated he earned this compensation working as a self-employed butcher for Boucher Grill for the period of January 10, 2019, to December 31, 2019;

- D. This \$5,000 income is the only business income the applicant reported for 2019, so logically, he did not have any clients other than the butcher shop;
- E. The applicant indicated he received compensation only in cash and he never deposited this money to a bank account;
- F. The applicant did not receive a T4 or T4A tax slip for his 2019 butcher's income;
- G. Mr. Awid did not provide any evidence of a bank deposit showing his butcher's compensation in 2019;
- H. Mr. Awid did not provide any accounting books or records to show this compensation earned in 2019;

[12] In short, the officer felt that the various exhibits Mr. Awid provided were not conclusive to show income of \$5,000 earned in 2019.

[13] Mr. Awid is challenging this decision.

II. Issue

[14] The applicable standard of review in this case is reasonableness as established by the Supreme Court of Canada: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 1617. Therefore, the issue is whether the CRA decision regarding Mr. Awid's eligibility for the CRB was reasonable.

III. Analysis

[15] Subsection 3(1) of the Act sets out the eligibility criteria for the CRB. To be eligible for the CRB, a Canadian resident notably had to have, for 2019 or for 2020 or in the 12-month period preceding the day on which they made the application, a total income of at least \$5,000 from employment or self-employment, among other sources.

[16] Mr. Awid submits that he indeed earned the exact amount of \$5,000 in net business income for 2019.

[17] The respondent submits that Mr. Awid did not meet his burden of showing that he did earn the exact amount of \$5,000 in net business income in 2019, which makes him ineligible for the CRB. I agree.

[18] In my opinion, the record shows that the officer considered all the documents Mr. Awid provided and his explanations as to why these documents did not show his income during the relevant period. In her opinion, Mr. Awid presented insufficient evidence to allow her to conclude that he had earned \$5,000 or more as a self-employed worker in 2019 or 2020 or during the 12 months preceding his CRB applications.

[19] Considering all the evidence, it was not unreasonable for the officer to conclude that the documents Mr. Awid provided were not sufficient justification to support his claims regarding the alleged income as a self-employed worker.

[20] The criteria under section 3 of the Act are cumulative; an applicant must meet all the criteria in order to be eligible. It is the CRB applicants' responsibility to ensure that they meet the criteria and that they are able to show that they do indeed meet the criteria.

[21] In order to properly review the eligibility of CRB applicants, the CRA is authorized under section 6 of the Act to require information from applicants, and applicants are required to provide this information to the CRA.

[22] Pursuant to subsection 230(1) of the *Income Tax Act*, RSC 1985, c 1 (5th supp) [ITA] and the applicable case law, it is in the public interest for Canadian taxpayers who operate businesses to fulfill their responsibilities as self-employed workers by diligently keeping detailed books and records to show their income, business expenses and any other relevant financial and tax items: *Njenga v. R.*, 96 DTC 6593, [1997] 2 CTC 8 (FCA).

[23] The Canadian tax system is a voluntary, self-reporting and self-monitoring system. The self-monitoring system is a privilege not to be abused by taxpayers. It goes without saying that Canadian taxpayers who operate a business are entitled to tax or financial benefits only if they have fulfilled their responsibilities as self-employed workers under subsection 230(1) of the ITA.

[24] While it is possible that Mr. Awid did work as a self-employed worker in 2019 and earned exactly \$5,000, the fact remains that he was unable to convincingly show the exact income from this self-employment. He was unable to provide the CRA with any type of record of the hours he worked as a self-employed worker in 2019 or of payments he received as such in

2019. Moreover, Mr. Awid made no effort to keep a record of his income as a self-employed worker in 2019.

[25] The officer's decision to deny Mr. Awid's eligibility for the CRB is based on a coherent and rational chain of analysis that is justified in relation to Mr. Awid's lack of documentary evidence to support his position as well as the various elements that affect the accuracy and plausibility of his claims.

IV. Conclusion

[26] Mr. Awid did not meet his burden of establishing that the decision made by the officer after the second review was unreasonable. As a result, the application for judicial review is dismissed.

[27] At the hearing, the respondent indicated that he would not seek costs considering Mr. Awid's good faith. As a result, no costs will be awarded.

JUDGMENT IN DOCKET T-1460-22

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.

“Roger R. Lafrenière”

Judge

Certified true translation
Elizabeth Tan

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1460-22

STYLE OF CAUSE: JOSEPH AWID v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 28, 2022

REASONS FOR JUDGMENT AND JUDGMENT BY: LAFRENIÈRE J.

DATED: DECEMBER 1, 2022

APPEARANCES

Joseph Awid

FOR THE APPLICANT
(ON HIS OWN BEHALF)

Simon Dufour

FOR THE RESPONDENT

SOLICITORS OF RECORD

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Montréal, Quebec

FOR THE RESPONDENT