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Federal Court rules CRA cannot issue notice of reassessment while rejecting it as proof of income

By **Anosha Khan**

Law360 Canada (February 7, 2025, 4:23 PM EST) -- The Federal Court has allowed an appeal of a COVID-era benefit eligibility decision in a case where the Canada Revenue Agency (CRA) did not accept that the applicant's notice of assessment was relevant to his income.

In *Vatankhah v. Canada (Attorney General)*, 2025 FC 235, the applicant, Masoud Vatankhah, and his wife operated a coffee shop in 2019, operating mostly on cash. The business suffered due to COVID-19 pandemic restrictions. The applicant had applied for and received Canada Emergency Response Benefit (CERB) for six distinct four-week periods.

He later received a CERB ineligibility determination by a CRA officer. An accountant reviewed his 2019 tax records and found errors, including improper recording of rent payments with arbitrary HST amounts and incorrect classification of personal expenses, which had led to an overstatement of business expenses for 2019. A T1 adjustment request was submitted to CRA showing this adjustment in income.

After corrections, the applicant's net income was calculated at \$6,745. The CRA issued a notice of reassessment indicating that he owed a further \$478.07 in income taxes. A request was submitted for a second review of CERB eligibility, which included documents identifying the accounting errors, a copy of the T1-adjustment, and itemized revenue and expenses using CRA Form T2125.

The accountant later contacted CRA to inquire about the status of the second review and requested that additional information be communicated in writing as English was not the applicant's first language. However, between the second review request and the rendering of the second decision, they did not receive written correspondence but only a voicemail message.

In an April 2024 letter, the CRA informed the applicant that he was not eligible for CERB for all periods claimed, saying that he did not earn at least \$5,000 in employment or self-employment income in the 12 months before his application.

In the second review, the CRA officer observed that the original 2019 income before reassessment was significantly lower than the required income threshold. While the applicant submitted bank statements and the amended tax return, there were no supporting documents such as invoices or receipts to substantiate the amended income calculation. The report said that attempts to obtain additional information were unsuccessful.

Without corresponding documentation to verify the source and timing of income, the second review noted, the bank deposits and amended tax return were insufficient to demonstrate the \$5,000 income threshold had been met.

Justice Russel Zinn noted that while tax returns are not conclusive proof of income, this "does not mean that the CRA can, without providing case-specific reasons, accept the T1 Adjustment Request and issue a Notice of Reassessment levying tax based on the adjusted 2019 income of \$6,745, while simultaneously rejecting those very documents as proof of income for determining CERB eligibility."

"By accepting the T1 Adjustment Request and Notice of Reassessment for tax purposes yet rejecting these documents for CERB eligibility without explanation, the CRA creates an unjustified inconsistency that undermines the [*Canada Emergency Response Benefit Act's*] remedial purpose," he

said.

"Therefore, CRA officers need to explain why the same documents deemed sufficient for tax purposes can be instantly viewed as insufficient for CERB assessment, especially given the benefit-conferring nature of the Act and the severe consequences for the livelihoods of benefit claimants like Mr. Vatankhah."

The court found that the second review contained two fatal analytical flaws.

"First, the Applicant submitted a T1 Adjustment Request along with a revised Statement of Business Activities, both of which were reviewed and certified by an accountant to confirm a 2019 income of \$6,745," Justice Zinn wrote.

"However, the Officer dismissed these documents as insufficient without explaining why the accountant's verification lacked substance or how the absence of invoices or receipts discredited the adjusted income figure considering the Applicant's circumstances."

"Second, the Officer noted the existence of 2020 deposits alongside a negative 2019 net income but failed to explain how deposits made in 2020 contradict the 2019 income determination. For instance, 2020 deposits could represent delayed payments for services performed in 2019, which would not invalidate the 2019 adjustment," Justice Zinn went on to say.

"Without explanations, the temporal mismatch cited by the Officer is largely irrelevant to the CERB eligibility period and cannot reasonably support a finding of ineligibility."

He said that the CRA failed to explain its inconsistent treatment of the same evidentiary documents and did not account for the legal context of the Act, failing to satisfy the reasonableness standard. Therefore, its decision-making process deserved judicial deference.

The decision was remitted to a different CRA officer.

The applicant appeared on his own behalf.

Counsel for the respondent was Tiffany Glover.

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