

APPLICATION FOR A JUDICIAL REVIEW

(Court File No.)

FEDERAL COURT

BETWEEN:

Therese Lennert
Plaintiff

and

Attorney General of Canada
Defendant

**APPLICATION UNDER SECTION 18.1 OF THE FEDERAL
COURTS ACT, RULE 301**

(Court seal)

Notice of Application

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *(place where Federal Court of Appeal (or Federal Court) ordinarily sits)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

July 7, 2022

Issued by: *(Registry Officer)*

Address of local office:

30, rue McGill, Montréal (Québec), H2Y 3Z7

TO: Attorney General of Canada, 284 Wellington Street Ottawa, Ontario K1A 0H8

Canada Revenue Agency, Jonquière Tax Centre, 2251 René-Lévesque Boulevard,
Jonquière, QC, G7S 5J2

Application

This is an application for judicial review in respect of:

Canada Revenue Agency

On June 8, 2022, I, Dr. Therese Lennert, was informed by the Canada Revenue Agency (CRA) that the second review of my Canada Recovery Benefit (CRB) application was denied (Reference Number C0043901390-001-45). According to their review I was deemed ineligible because I did not meet the following criteria:

- 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.

This decision means that any future CRB applications I make will be denied. It also means that I will be required to repay any CRB payment I already received.

I became aware of this decision on the same day, June 8, 2022.

The applicant makes application for:

That I be deemed eligible for the CRB, and this, retroactively. Indeed, that my future CRB requests, which I was unable to apply for due to the review of my status (June 20, 2021 – May 7, 2022) be accepted, as well as my previous requests also accepted, retroactive to the start of my payments on September 27, 2020.

The grounds for the application are:

I worked as a post-doctoral fellow (PDF) from September 2012. In 2019, I continued to earn income from this employment before transitioning to becoming an independent contractor. During the 2019 taxation year I reported employment income in excess of \$5,000. To my knowledge no specific interpretation of a PDF is mentioned in the Income Tax Act, however, documentation publicly available on the CRA website lists PDF income as employment income. Other tax benefits likewise treat remuneration for a PDF as employment, working and earned income.

According to the CRA, income that determines eligibility for the CRB includes all employment income, but excludes student loans, bursaries or scholarships. Since according to CRA documentation a PDF is not considered a student, my income respects the eligibility requirements as listed. In making their assessment, the CRA did not provide me with any rationale nor documentation to support their decision. Despite repeated requests to speak to a Technical Officer with sufficient background to explain their decision, no officer was ever made available to me. The Agents I did speak with were insufficiently trained to address my concerns and questions in this regard.

My exclusion from eligibility for the CRB and the inability of the CRA to provide supporting documentation for their ruling runs contrary to the Taxpayer Bill of Rights.

Consequently, the determination that my employed income be deemed ineligible appears arbitrary and requires review.

I also earned net self-employment income that exceeded the \$5,000 minimum. I provided extensive documentation to prove the work was performed. Likewise, I verified with a CRA agent before submitting my income tax return, as to whether my manner of accounting was acceptable, even if not ideal. I was informed I was required to include the income in my taxes nonetheless. The necessity for me to include this income in my tax return, yet not have it deemed eligible for CRB determination likewise runs contrary to the Taxpayer Bill of Rights. Consequently, the determination that my self-employed income be deemed ineligible requires review.

In addition to meeting the criterion challenged by the Canada Revenue Agency in their review, I met all of the other CRB eligibility criteria. This request for a review could be enhanced upon receipt of the documents in possession of the Canada Revenue Agency.

This application will be supported by the following material:

<https://www.canada.ca/en/revenue-agency/services/tax/technical-information/income-tax/income-tax-folios-index/series-1-individuals/folio-2-students/income-tax-folio-s1-f2-c3-scholarships-research-grants-other-education-assistance.html#toc18>

<https://www.canada.ca/en/revenue-agency/services/benefits/recovery-benefit/crb-who-apply.html>

The applicant requests the *Canada Revenue Agency* to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the *Canada Revenue Agency* to the applicant and to the Registry:

- copy of my full and complete file
- internal CRA documentation referencing post-doctoral fellowships

July 7, 2022

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