

T-1597-22

FEDERAL COURT COUR FÉDÉRALE		D É P O S É
AOUT 03 2022		
JUSTIN WONG		
TORONTO, ON		

101

Federal Court

Between:

Davood Khodaverdi

(Applicant)

&

Attorney General of Canada

(Respondent)

APPLICATION UNDER SECTION 18.1 OF THE FEDERAL COURTS ACT

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 Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any steps 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 court rules and serve it on the applicant's solicitor, 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, JUDGEMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

August 3 JW
July 28, 2022

JUSTIN WONG
REGISTRY OFFICER
AGENT DU GREFFE
Issued By:

Address of Local Office:
200-180 Queen Street W,
Toronto, ON M5V 3L6

TO: THE ATTORNEY GENERAL OF CANADA
DEPARTMENT OF JUSTICE
Ontario Regional Office
400-120 Adelaide Street West
Toronto, ON M5H 1T1

Form 301 Rule 301

Notice Of Application

1. This is an application, pursuant to subsection 18.1(1) of the Federal Courts Act, RSC 1985, c F-7, for judicial review of a decision rendered by the Government of Canada in respect of the Applicant's eligibility for the Canada Recovery benefit (herein referred to as the "CRB") under the Canada recovery benefits Act, SC 2020, c.12 s. 2 (herein referred to as the "CBRA")

2. The Applicant:
 - a) Was a self employed as Marketing & Admin Help in Hamshahri Publication INC during the period from Jan 1st, 2020, to March 31st, 2020.
 - b) Generated income against rental income of \$15,194.04 and \$6,000 income as a self-employed, total He earned \$21,194.04 other than the money received from the government during the taxation year 2020.
 - c) First applied for the CRB on Dec 20th, 2020.
 - d) Received the letter from the CRA on Feb 14th, 2022. Against this letter we provided
 1. Sent letter of the company Hamshahri Publication INC where he earned 6000 during the period Jan 1st to March 31st 2020.
 2. Notice of Assessment, we showed that Income earned more than \$5000 during the year 2021.
 3. Proof of deposit, the money received as a self-Employed from Hamshahri Publication INC.
 - e) Received second review for CRB Application on July 17th, 2022, by the CRA. *Dated July 11, 2022*

3. Notified the applicant that it has determined that the applicant was not eligible for the CRB, due to the following reasons.
 - a) That the ineligibility was based on the Applicant not meeting the following criteria:

“You did not earn at least \$5000 (before taxes) of employment or net-self-employment income in 2019, 2020 or in the 12 months before the date of your first application”.

- b) You were not working for reasons unrelated to COVID-19.
 - c) You did not have a 50% reduction in your average weekly income compared to the previous year due to COVID-19.
4. This honorable court is respectfully requested to review the Impugned decision rendered by the CRA and find that the Impugned Decision.
- a) He did earned more than \$5000 income against net self-employment income in 2020.
 - b) He was lay off from the working as a Marketing & Admin help in HAMSHAHRI PUBLICATION INC, due to the company sales was almost zero due to COVID-19.
 - c) He tried to get other jobs but due to the age (i.e., 64 years) factors and reasons related to COVID-19.
 - d) His income was drastically reduced more than 50% reduction. His average weekly income as compared to previous year due to COVID-19.
 - e) Is procedurally unfair because the Applicant was not given an opportunity to be heard.

Order Sought

5. The Applicant requests:
- a) A declaration that the Applicant meets the requirements of eligibility for the CRB.
 - b) In the alternative, an order setting aside the Impugned Decision and referring the matter back to the CRA for reconsideration in accordance with such directions as this Honorable Court considers appropriate.
 - c) An order for costs; and
 - d) Such other relief as this Honorable Court deems appropriate and just in the circumstances and counsel for the Applicant may advance.

The Grounds for the application are:

6. A person's eligibility for the CRB is set out in section 3 of the CRBA.

7. For purposes of the income criteria for self-employed, income is defined in subsection 3(2) as:
“For the purpose of paragraphs (1) (d) to (f), income from self-employment is revenue from the self-employment less expenses incurred to earn that revenue.”
8. The Applicant had income from self-employment income in the amount of \$6000 in 2020 and had no expenses to deduct against revenues.
9. The applicant met all criteria for edibility for the CRB including the criteria above which the CRA decision maker concluded he did not meet.
10. The Applicant provided documentary proof of his income for the relevant period to the CRA decision makers.
11. The documents demonstrate the Applicant meets the income criteria for the CRB.
12. The decision maker did not consider, refer to the existence of, analyze the evidence of the existence of the Applicants income, or refer to the documentary proof or representations of the Applicant, therefore rendering the decision unreasonable.
13. The decision maker did not request additional information or indicate to the Applicant that the information provided was inadequate, depriving the Applicant of the right to know the case to meet, rendering the decision procedurally unfair.

Statutory Provisions

14. In this Application, the Applicant expects to rely on:
 - a. Federal Courts Act, R.S.C, 1985, c. F-7, Section 18.1; and
 - b. Canada Recovery Benefits Act, S.C. 2020, c.12 s. 2, Sections 3 and 4.

This Application will be supported by the following material:

- a) The Letter of Confirmation from Hamshahri Publication INC confirming that the Applicant received \$6000 during the period Jan 01 to Mar 31,2020.
- b) Tax return showing the income, He earned income from the self-employment during in the income tax year 2020.
- c) Notice of assessment for the year 2020 showing He earned \$6000 against the self-employment income.

Date: July 28, 2022

Applicant & Plaintiff Name: DAVOOD KHODAVERDI

Signature: 

Email Address: khodaverdidavood@gmail.com

Cell No: 647 675 6830

House Address: 28 Fern Valley Crescent,
Richmond Hill, Ontario
L4E 2J2.

RECEIVED
REGISTRATION OFFICE
MAY 15 2022
MONTREAL, QUEBEC
MONTREAL, QUEBEC
MONTREAL, QUEBEC

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____

day of _____ A.D. 20 _____

Dated this _____ day of _____ 20 _____

JUSTIN WONG
REGISTRY OFFICER
AGENT DU GREFFE