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FORM 301 Rule 301 **Notice of Application**

FEDERAL COURT (or FEDERAL COURT OF APPEAL)

BETWEEN

Sandra Lang

Plaintiff

And

Attorney General of Canada

Defendant

(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.

November 10, 2022

Issued by: *(Registry Officer)*

Address of local office:
30 McGill Street
Montréal, Quebec
H2Y 3Z7

TO:

Canada Revenue Agency
Sudbury Tax Centre
1050 Notre Dame Ave.
Sudbury, ON. P3A 5C2

Application

This is an application for judicial review in respect of

Canada Revenue Agency Canada Emergency Response Benefits (CERB) eligibility.

October 13, 2022, communicated on October 13, 2022.

Reference Number: C0044646687-001-45

Re: Second Review Letter – no adjustment

Based on our review, you are not eligible. You did not meet the following criteria:

You did not earn at least \$5,000 (before taxes) of employment or self-employment income in 2019 or in the 12 months before the date of your first application.

The applicant makes application for: Reinstatement of Canada Emergency Response Benefits eligibility retroactively.

The grounds for the application (eligibility) for the Canada Emergency Response Benefit were at that time:

1. I was affected by the lockdown and subsequent pandemic restrictions during the time of the CERB – I lost ALL of my income for the periods covered.
2. I reviewed the eligibility requirements as expressed by the Canadian government at mid to end of March 2020. These requirements were thus,
 - (a) You did not apply for, nor receive, CERB or EI benefits from Service Canada for the same eligibility period
 - (b) You did not quit your job voluntarily
 - (c) You reside in Canada and are at least 15 years old
 - (d) You earned a minimum of \$5,000 (before taxes) in the last 12 months, or in 2019, from one or more of the following sources:
 - employment income
 - self-employment income
 - provincial benefit payments related to maternity or parental leave
 - (e) One of the following:

- Your work hours were reduced because of COVID-19 (see last checkbox below for more details)
- You stopped working because of COVID 19
- You were unable to work because of COVID-19, for example because you were taking care of someone
- You were paid EI regular or fishing benefits for at least one week of benefits since December 29, 2019 and you used up your entitlement to those benefits

(f) One of the following:

- If you were applying for the first time: You stopped working, or you were working reduced hours due to COVID-19, and you have not earned more than \$1,000 in employment or self-employment income (before deductions) for at least 14 days in a row during the 4-week period.
- If you were applying for a subsequent period: You were still not working, or you were working reduced hours due to COVID-19, and you have not earned more than \$1,000 in employment or self-employment income (before deductions), and you expected this to continue during the entire 4-week period.

A) I did **NOT** apply **NOR** receive CERB or EI benefits from Service Canada for the same eligibility period

B) I did **NOT** quit my job voluntarily

C) I reside in Canada and I am (today) 50 years old

D) I earned well above the minimum of \$5,000 (before taxes) in 2019 (I did see the "OR" between the last 12 months and in 2019) in 2019 in addition I earned \$2,500 (before taxes) for 2020 before the lockdown in late March 2020. **ALL** from self-employment income as a cleaning lady, housekeeper, babysitter/nanny/caregiver – **ALL** declared in both federal and provincial tax returns to which I received Notices of Assessment. The eligibility requirements stated **BY** the government itself, clearly stated you had to have made more than \$5,000 (before taxes) in income made during 2019 **OR** had this prior to applying for the CERB in 2020 – notice there is **NOT** an **"AND"** but an **"OR"** between **those qualifications** – I filed what I earned which was in 2019 a total of \$13,000 (for 52 weeks of work) and in 2020 my earned income was \$2,500 (for 10 weeks of paid employment as I had 3 weeks off unpaid for vacation at the beginning of

January BUT I was still employed in January as my families (clients) went away at the beginning of January long before the idea or notion of a pandemic or lockdown at the end of March – together those two amounts give me a total earning of \$15,500 before the pandemic – **THIS** in conjunction with the requirements stated on the CRA website when people applied for the CERB made/makes me eligible. There was **NO** break in my employment from January 2019 to end of March 2020.

E) I stopped working because of covid-19, during the pandemic and lockdowns etc. No one wanted a cleaning lady, housekeeper, or babysitter/nanny/caregiver.

F) I stopped working AND did NOT earn any additional income during the entire period of the CERB program – broken up into 13 4-week period

I am requesting this judicial review, as I feel there was a miscarriage of justice in the review of my evidence of income qualifications for the CERB (and under a separate judicial review application the subsequent CRB during 2020 and 2021. There were so many inconsistencies (which I will list here) during the two reviews conducted already in which a conclusion of "non-eligibility" for those programs was delivered that I stand by my opinion of a miscarriage of justice or dare-I-say incompetence on the part of the CRA agents who reviewed my evidence. Cap that off with the refusal of any of the two reviewers to give any sort of reason for their conclusions that I made NO income in the period of 2019 and the 3 months prior to the commencement of the CERB program in 2020.

I **DID HAVE** an income both all of 2019 (52 weeks) and during the initial months of 2020 (10 weeks prior to the lockdown and ensuing pandemic – **ALL** of which is supported by 124 receipts and a signed declaration by those who employed me for their 2019 payments to me) – otherwise why would I file income tax returns for (both federal and provincial) for the years 2019 and 2020 – **if I had NO income?** And why would the federal and provincial revenue agencies issue Notices of Assessment for the amounts I made and which the CRA has access to (federal ones of course).

I will list all of my evidence of my making an income both for **ALL** of 2019 and the beginning months of 2020 here at the beginning of this letter:

- 52 receipts from Family A (I worked for two families each week for the entire year) for their weekly payments in cash to me during 2019.
- 52 receipts from Family B (as previously mentioned I worked for two families each week) for their weekly payments in cash to me during 2019.

- 10 receipts from Family A for their weekly payments in cash to me during the initial months of 2020 – pre-lockdown.
- 10 receipts from Family B for their weekly payments in cash to me during the initial months of 2020 – pre-lockdown.
- Filing and subsequent review culminating in a Notice of Assessment for 2019 – Federal, for my income for that year.
- Filing and subsequent review culminating in a Notice of Assessment for 2020 – Federal, for my income for that year.
- Filing and subsequent review culminating in a Notice of Assessment for 2019 – Provincial (Quebec), for my income for that year.
- Filing and subsequent review culminating in a Notice of Assessment for 2020 – Provincial (Quebec), for my income for that year.
- Deposits into my account of remaining amounts of cash from “said” income – deposits noted by the bank into a joint account at the RBC shared between myself, my husband, and my husband’s mother during **ALL** of 2019 and pre-lockdown 2020. For the CRA agents, I highlighted and differentiated my deposits from those of the others on the joint bank account (colour-coded) – **AND** I provided a key matching them up with the dates noted in my income account book.
- My Income Account Book where I noted (individual entries) of the receipt of my income each week from each family to which I had each family initial the entry in my book.
- 2 declarations signed by the employers (from family A and B) who paid me each week in cash at the close of each year in my Income Account Book – in this case 2019 (this is not there for 2020 due to the loss of my jobs due to pandemic and the just or unjust paranoia by families and small employers about hiring workers like myself).

Please note #1, I do not write or speak French at all and do not write in English or even speak it with any fluency as I am a native Spanish speaker with dyslexia. It is my husband (of 32 years) who has taken down my words (here) and transcribed them for this letter – he also corrected the grammar and sentence structure as well as making it more readable for you – please note he has done this for me in the previous letters submitted when you read them, this is why they can be smoothly read. This is also why the delay in getting this submitted near the end of the 30 day period to request the judicial review. I will add, that I delegate all of my communications through him or

authorize him to do so when speaking to representatives of the government or financial/business institutions by way of verbal authorization.

Please Note #2, I kept (keep) detailed records as you have copies here (uploaded), they may not be as a bookkeeper would do (this agent asked for records from an accountant or bookkeeper) but I kept (keep) detailed records and they have been uploaded for you to look over. **BUT** this agent, however said that she could not understand "how someone did not get business checks to deposit".

Please Note #3, I am **NOT** the primary "breadwinner" for our family **AND** I keep all my earnings (paid in cash to me) in an actual cookie tin from which I take out various amounts over the year to either deposit as extra family bills come due or to buy groceries. I have a surplus each January from the previous year which just carries over – this is noted from 2018 as \$1,400 carried over from 2018.

Please Note #4, I deposit what is left of my earned money when the deposit is needed **NOT** when I receive my income each week, this is as noted in the bank statements.

Here are the facts I know as facts and express here in my own words:

- I list (all 11 items) here again from the evidence I posted above (so will not duplicate them here) as facts.
- Before beginning to work (joining the work force) as a self-employed cleaner, housekeeper, babysitter, and nanny – I (and my husband) went to both the federal and provincial revenue offices in Montreal to obtain a list and schedule of what I needed to provide and do in regards to my working as a self employed person and being paid in cash – BEFORE I even began to work.
- I was directed by agents at both the federal and provincial revenue agencies to:
 - i. Provide receipts (preferably from an office supply receipt book made for this purpose) to the individual or small business paying me, when receiving cash or personal checks provided to me for my work (All of my work).
 - ii. Keep a separate log or record of these transactions in an accounts book.
 - iii. Note any deposits from these amounts into the bank or keep the bank's monthly statements for 10 years.
 - iv. File tax returns and include these cash and /or personal check amounts (with the receipts as proof should the government want that later on after filing – keep these securely stored).
 - v. Keep the Notices of Assessment in a secure place once the government revenue agency (ies) have reviewed your income tax for a particular year.

- An accountant friend of ours directed me to have my families (clients) initial each cash receipt as well as signing the declaration at the end of my income account record book (something my father also taught me, as he was an old-school accountant in Mexico – just in case this was needed as I **MAY NOT** have access to these clients at a later date – after all, who stays in contact with their cleaning lady or housekeeper? (rhetorical question that last one)).

Here are the problems I listed in my first request for a second review – I relist them as they are pertinent on the second review. This is where I outlined the reasons why I disagreed with the first agent's conclusions of me having **NO/ZERO** income to qualify for the CERB and subsequent CRB – I humbly direct you to see my lists above and any and **ALL** evidence I previously submitted to the CRA as well as here (the actual letter is in the CRA's submission area and attached at the end of this document as well:

Problem #1:

The agent kept repeating "if you are self employed, you must have to give official invoices to the places you work".

My response:

She (the agent) could not understand that when one is self employed as a housekeeper, nanny, or cleaning woman, you are not a business – you are one person who comes and cleans, cares for children, or maintains a single household – I also stated that I gave my families (clients) receipts (each week) when they paid me AND at the end of the year I had them also sign a statement in my account (record) book about how much they paid to me in the preceding year. In this case, it is the year of 2019. **BUT** the agent, did not want to see the account book, even when my husband and I offered it several times. She instead asked for a summarized sheet (spread sheet supplied at that time) which I and my husband prepared for her.

Problem #2:

The agent demanded I note down my expenses for the year **BUT** she could not explain or clarify what she meant by "expenses", she said "I should know". And made me feel foolish for asking.

What I found out subsequently on my own from an accountant friend of ours:

"Expenses" are things where you spend money to earn income as directly relates to the business in question. I therefore do **NOT** have any expenses.

Problem #3:

The agent repeatedly stated that she could not understand how or even why three people could use or even have 1 bank account. She also stated that these must be the same person.

My response:

This agent seemed incapable of discerning three separate people, who, when they opened the account or were added – as I was to my husband's joint account with his mother – have to supply the bank with identification documents that can be verified as to the identity of the person being added.

We also never had a need for separate bank accounts, I have lived happily in this manner for 32 years of marriage. I have not wanted anything else.

In speaking with the bank manager on this subject as we went there to see what we could provide, he was surprised over the agent's statements and said that there are many people who have joint accounts. **AND** who do not have to justify the reason for having them.

Problem #4:

At one point 2/3 of the way through the process with the agent, she stated after asking for more clarification to both myself and my husband – that she had not reviewed or even looked at the detailed breakdown we had previously provided.

My response:

Firstly, what kind of professional is that?

Secondly, if she had just looked at the documents already supplied she would have seen different "Family names" on my receipts and "Different services" listed.

Problem #5:

The agent stated, her words – "it is not normal" to deposit cash days or longer after receiving it – "most Canadians use bank cards (Interac) or credit cards from bank accounts where their pay is automatically deposited."

My response:

Has this agent never used cash? I think my reply says it all.

Problem #6:

The agent stated "it was too much, time consuming to look at" the ledger I had of my income and when it was deposited. She wanted only summarized bank statements.

My response:

Isn't the government interested in account records when maintained in a formalized manner, regardless of if a person uses a ledger/account book they purchase and write into in ink. My husband prepared exactly what the agent asked for (upon my authorization to him) and she was then not satisfied. Again I note, we repeatedly asked to submit to her, images of my ledger account book with my clients initials at each payment and signature at the end of the year stating how much they paid me during that past year.

She did not want these, I ask why??

Problem #7:

The agent said the NOAs were of no use. And that I (Sandra Lang) had not made any income in 2019 that she could see.

My response:

Why would I (Sandra Lang) file an income tax return to both the federal revenue agency (CRA) and the Quebec provincial tax department in the amount of \$13,000 for 2019 **IF and I say IF** I had made nothing that year?? That is a rhetorical question I know.

But we still uploaded the Notices of Assessments which the Canadian and Quebec tax departments supplied me after reviewing my income.

Problem #8:

The agent had in her possession a subset of the 104 receipts (images of them) which she said (previously noted above she did not look over), as well as a summarized ledger, instead she asked for briefness instead of images of my hard copy record/account book.

My response:

Are not receipt books sold for specifically the purpose of keeping a real bona-fide record of a financial transaction between individuals or businesses alike? Again a rhetorical question.

I delivered to my families (clients) receipts when they paid me on each Friday (Yes, I worked for both my families on each Friday – AM one family and PM the other, this is why they are both the same dates.

I also had my families (clients) put their initials to each payment in my record book.

And had then at year's end, each family sign a statement of the amount they paid me for my work during that past year. My father who was an old-school accountant in Mexico taught this way of keeping records to me.

Problem #9:

Again I reiterate, the agent did **NOT** want to see all my receipts – all 104 of them for 2019 and she did **NOT** want a full image of my record book.

My response:

This was stated several times even after we asked, both my husband and I (since I authorized him each time he had to speak with her for clarification as I did not understand her English due to her accent and my limited vocabulary. **BUT** I was present though sitting beside him each time and I authorized him to speak to her). He has by the way prepared all this for you as he is the computer person in our family.

Problem #10:

The agent continually arranged to call me during my working hours as she said she was on the Pacific coast and I had to accommodate her. She said she could not understand, anyone barring a worker from using their phone (cell or otherwise) during the hours that they work.

My response:

I explained to her (the agent) that I am banned from using the phone at my places of work unless it is a family emergency. They hire me to clean, house-keep, and/or babysit, not talk on the phone or take calls. I do not have free moments at all. I work!

I also explained to her, that where I work I can be warned and then fired from my work for using a phone during their “paid for” hours. She could not believe that.

BUT I need my jobs! I tried to prearrange to call her when she (the agent said she took calls) stated at 11AM a couple of times, I start work a lot earlier than that.

However, on Tuesdays and Fridays presently, each week, I have until 12:30PM available to myself, so these are the times I prearranged the 11AM phone calls to the agent. She did not like being limited to Tuesdays and Fridays as Fridays she finished early (her words).

Problem #11:

The agent stated she only takes calls at specific hours and most often prefers to not answer when it rings but return the voice message.

My response:

If you arrange for someone to call you at a set hour on a set day due to the problems of making phone calls, then you answer your phone at that time OR you return the phone call when you listen to the voicemail left by the caller.

Of the times I called her (the agent) at a prearranged time and could not get a hold of the agent (yes, I kept a record of these):

- 4 of these she didn't return my voicemail message until 1 or more days later, the longest was 6 days later.
- 3 of these the voicemail went to a click and then hung up.
- And the rest of the times I phoned her she did not pick up and I did not leave a voicemail as I was frustrated at this point **OR** could not prearrange with my present employers time to make another call that day.

Other times we spoke she called through while I was at work and I had to go outside to speak with her and then arrange to speak at a prearranged time. Sometimes she agreed sometimes she did not as she said she could not understand why I could not speak to her at that time. These were almost always tried to be prearranged for the aforementioned Tuesday and Friday mornings.

Problem #12:

The agent told me that she could not understand why I did not have access to my tax information when I was at work when she called me, surely I had access to an online computer to access that information.

My response:

I am a cleaning woman, housekeeper, babysitter – I work in cleaning supplies and diapers. No where is there a computer to use.

Problem #13:

The agent told me that she could not understand why I had to have my husband present to access my tax information. That was not normal according to her.

My response:

My husband is the computer engineer, he spends his whole life on the computer, so it is natural for him to maintain our tax filings for our family. He is the computer

literate one. Surely there are people in Canada who do not use or know how to use a computer in this year of 2022, again rhetorical question showing the absurdity of that agent's statement.

Here are the reasons for my request for a judicial review of this matter following the second review by a CRA agent:

1. Before I asked for a second review by a CRA agent – I spoke with several agents (3 in fact) by phone by calling in on the general line for this, and each one of them listened to my reasons and evidence and said they could not see why I was told I had **NO** income for the period before the CERB. Each one of them advised me to request a second review.
2. I submitted my request for a second review on the 14th of July (2022) along with all of my supporting documents as scanned images (all the receipts for 2019, this is what the previous agent kept stressing on – I could have submitted those of 2020 but she did not stress on those and even went so far as to say (I quote her words here) – “I am **ONLY** looking at 2019, do not send anything else”.
3. The following week (on the July 21st, 2022) I submitted a follow-up message (July 21st, 2022) inquiring as to if there was more information required, since I had not received any response or inquiry from an agent about my submissions of request sent previous week.
4. Note, this was in July, I was **NOT** contacted by anyone, not responded to by any agent regarding my requests to see if my documents were indeed being reviewed or looked at, and did not get any questions or feedback at all from the CRA in regards to this – **BUT** oddly enough, on the My Account (Canada Revenue Agency) main page, on the right-hand top entry entitled Progress Tracker – this always stated “Our records show you have no files being tracked at this time.” - it never altered or changed. This caused me great anxiety, since there was this message no agent was asking me questions, responding to my messages and intervening monthly phone call requests, or even getting in touch with me. However, on the 15th of September (2022) two new entries were placed in the mail box entitled “notice of redetermination”. Each of these states that a second review was done and no changes were being made – they still stated I had **NO** income in 2019, even after ALL of my submitted proof. I have to ask did no one give a hoot to look at anything?? rhetorical question and my frustration. To this we contacted the CRA's Ombudsperson's office and spoke with this individual – we were directed to file for this judicial review as we definitely had the “evidence” to have our case reviewed in light of the evident missteps or

errors or “not doing there job” on the part of the CRA agents’ involved. I was told this is what the ombudsman would do and why have arrived here – **BUT** there is still more oddness to this story.

5. Following these letters in the inbox from the 15th of September and while I was getting my material ready for this request – I received on the 30th of September (2022) a phone call from a CRA stating they were assigned to perform a second review as we requested back in July (um... who did the second review which resulted in the two letters in the inbox on the 15th of September??). I (and after I authorized my husband) spoke with her and she told us she definitely would get back to me (us) after she looked over what was submitted previously and we could expect a phone call from her in the next two weeks. Nothing came – no phone calls – and that message highlighted on the CRA My Account page (in point 4 above), never changed – never said anyone was looking at the documents submitted – BUT on the 13th of October (2022) I received two emails stating new letters were in my inbox at the CRA – I went there and see two pdfs “Second review letter – no adjustment”, within which they state I had **NO** income in 2019. **My frustrated now → WHAT???**

Therefore I am formally requesting a judicial review of **AND** in light of all I have demonstrated here in regards to these (in my view) unjust and unfair reviews by CRA agents who (in my opinion **ONLY**) were:

- **NOT** looking at anything I submitted.
- **NOT** doing their jobs correctly.
- **OR** who need more training.
- **OR** who started with a preconceived conclusion at the outset as the government now wants to claw back all that money they gave out during the pandemic periods, to which **NO** amount of submitted evidence would change the result of their opinion or determination.

This application will be supported by the following material:

- Sworn to Affidavit of the facts
- Copies of **ALL** 104 + 20 = 124 receipts I gave to my clients during the period covered between 2019 and 2020.
- Copy of **ALL** pages pertaining to this period of my Income Account Record Book.
- Copies of **ALL** my monthly bank deposit statements (colour-coded) as mentioned above.

- 6 letters from the Canada Revenue Agency: dated – June 17th, September 15th, and October 13th 2022.

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:

- A screen shot clearly displaying my CRA account's CERB pre-qualifying checklist page on or before April 14th, 2020.
- Copies of the pre-qualifying questionnaires for the Canada Emergency Response Benefit from my CRA account April 14th, 2020 through September 8th, 2020

November 10th, 2022



Sandra Lang
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H1Z3Z3
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[SOR/2021-151, s. 22](#)