



T-1525-23

Court File No.

FEDERAL COURT

BETWEEN:

BEVERLY MORRELL

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

**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.

Date: July 21, 2023

Issued by:  Address of local office: 635 8 Ave SW, Calgary, AB T2P 4H5

EVA KAN

REGISTRY OFFICER

AGENT DU GREFFE

TO: Attorney General of Canada

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# Application

This is an application for judicial review in respect of the decision of the Canada Revenue Agency (CRA) for CRB benefits dated June 21, 2023 (Rec'd July 6, 2023) (second review). The CRA letter states the applicant did not meet the criteria as "You were not working for reasons unrelated to COVID-19". I have read their reason at least 20 times and still do not understand it. July 10, 2023 I phoned CRA (Key I.D. 4571WRO) to ask what it meant - his response was "Well, it is opposed to *You were not working for reasons related to COVID-19*". I asked for an example but he couldn't give me one. July 14, 2023 I wrote and uploaded a letter to Richard (the Person assigned to do the second review) asking him what it meant and to provide an example. To date I have not received a response.

2019. The CRB eligibility criteria requires that you must earn at least \$5000 in 2019, 2020, or in the 12 months before the date of application from employment income (gross) or self-employment income (net). The CRA has classified the Day Trading income the taxpayer earned from trading options as investment income (capital gains) and therefore not qualifying for CRB benefits. The taxpayer originally filed the income as 'Other' income, however on 21 June 2021 I was told by the CRA that Day Trading income should be reported as Business Income not Other income. The taxpayer submitted an Adjustment Request to Change the Other income to Business income.

The applicant makes application for the Judicial Review of this decision and an order of the Court:

1. that the decision of CRA should be set aside by the Court under an order of Certiorari;
2. that the CRB application for the Periods 14 through 28 be granted; and
3. that costs and such further and other relief as the Court may provide

The grounds for the application are:

1. The CRA unreasonably exercised 'Transactions in Securities' NO: IT479R 39(1), 39(4), 39(6), 39(10), 39(11b), 39(11c), 39(11e), 39(23), 39(25c) of the Income Tax Act.
2. The CRA erred in law in making the decision April 24, 2022 and the decision should be set aside under s. 18.1(4) of the Federal Courts Act.

This application will be supported by the following material:

- The Affidavit of Beverly Morrell
- Exhibit 'A' Excerpts from CRA Transactions in Securities IT-479R 39(1), 39(4), 39(6), 39(10), 39(11b), 39(11c), 39(11e), 39(23), 39(25c)

- Exhibit 'B'
1. Letter uploaded to CRA July 14, 2023 questioning what their decision of June 21, 2023 meant and asked for example.
  2. Letter sent by Canada Post from CRA June 21, 2023 and received on July 6, 2023 re: notice of decision "You were not working for reasons unrelated to COVID-19"
  3. Letter posted on CRA My Account from CRA on 14 March 2022 (the second review) and received on 24 April 2022 re: notice of decision "You did not earn at least \$5000 (before taxes) of employment or self-employment income in 2019, 2020 or in the 12 months before the date of your first application".
  4. Letter uploaded to CRA 27 November 2021 challenging their decision re: CRB benefits.
  5. Letter sent by Canada Post from CRA 18 October 2021 (the first review) re: notice of decision "You did not earn at least \$5000 (before taxes) of employment or self-employment income in 2019, 2020 or in the 12 months before the date of your first application"
  6. Log of conversions/correspondence with CRA and Courts Registry Office
- Exhibit 'C'
- a. Revised 2019 Tax Return showing Business Income of \$8720, T1 Adjustments, 2019 T5008, 2019 DayTrading Spreadsheet for calculations changes.
  - b. 2019 T1 Adjustment Request re: RSP Deduction, CPP Contributions and Refundable Medical Expense Supplement
  - c. 2019 T1 Adjustment Request to change 'Other Income' to 'Business Income', 2019 T5008, 2019 DayTrading Spreadsheet for calculations
  - d. 2019 Tax Return - 2019 Other - 2019 Other Income, Deductions, Credits and Notice of Assessment

#### Issue

The issue before this Honorable Court on this Application is whether the taxpayer's Day Trading is 'carrying on a business - earned income' or 'capital gains'.

#### Law and Argument

Justice David E. Spiro recently ruled that day trading is considered carrying on a business.

The applicant was unable to find case decisions that were similar to her situation. Also, she found very little information regarding options trading and no information that was specific to day trading.

Excerpts from CRA 'Transactions in Securities' NO: IT479R

The decision of the Canada Revenue Agency in respect of the CRB eligibility criteria overlooked compelling evidence (income earned, type of income) and reached this finding in a manner in which the eligibility criteria was not interpreted reasonably, or fairly.

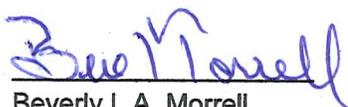
I hereby request the Honorable Court accept my Application in consideration of these factors. The applicant requests that the Canada Revenue Agency send certified copies of the following material that is not in the possession of the applicant but is in the possession of the Canada Revenue Agency to the applicant and to the Registry:

1. All materials prepared and relied upon by the CRA in their review of Beverly Morrell's CRB application; and
2. Beverly Morrell's 2019 tax return original Notice Of Assessment (that has been removed from the CRA 'My Account') where CRA states they have changed my return to show that the Income I had reported as 'Other Income' to 'Capital Gains'.

All of which is respectfully submitted,

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

Affirmed before me at Calgary, the Province of Alberta this 21st day of June 2022.



Beverly L.A. Morrell

Applicant

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TO:

Attorney General of Canada

635 8 Ave SW, Calgary, AB T2P 4H5

I HEREBY CERTIFY that the above document is a true copy of the original issued out of/filed in the Court on the 21st day of JUL  
2023 Dated this 21st day of JUL 2023.

