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6-OCT-2023			
Iain McCann			
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Court file #:T-2160-23

Federal Court

BETWEEN:

DAT VIET NGUYEN

Applicant

- and -

THE MINISTER OF NATIONAL REVENUE (CANADA REVENUE AGENCY)

Respondent

- and -

ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION UNDER Section 18.1 of the Federal Courts Act, R.S.C., 1985, c. F-7

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 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.

October 5, 2023

Issued by: *(Registry Officer)*

Address of local office:

**180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6**

TO: THE MINISTER OF NATIONAL REVENUE
c/o Canada Revenue Agency
Sudbury Tax Services Office
1050 Notre Dame Avenue
Sudbury ON P3A 5C2

AND TO: THE ATTORNEY GENERAL OF CANADA
Ontario Regional Office
Department of Justice Canada
120 Adelaide Street West
Suite #400
Toronto, Ontario M5H 1T1

Application

This is an application for judicial review pursuant to s. 18.1 of the *Federal Courts Act*, RSC 1985 c F-7 in respect of: a decision of the Canada Revenue Agency ("CRA") Benefits Compliance Officer on behalf of the Minister of National Revenue ("the Minister"). By letter dated September 10, 2023, and bearing reference number C0060937459-001-45, CRA Manager S. Constantin informed the Applicant that he is not eligible to receive the Canada Emergency Response Benefit ("CERB") as he did not receive \$5,000 in income in 2019 or the 12 months prior to his first application for that benefit.

The applicant makes application for:

1. An Order setting aside the decision of the CRA, that the Applicant is ineligible for the CERB;
2. In the alternative, an Order referring the matter back to a different agent of the Minister for reconsideration of the Applicant's eligibility for the CERB, with such directions as this Honourable Court considers just and appropriate.

The grounds for the application are:

1. The Applicant, Dat Viet Nguyen ("Mr. Nguyen"), was on Employment Insurance from August 11th, 2019 to May 9th, 2020.
2. Mr. Nguyen, applied for the CERB based on a listed Eligibility Criterion for the CERB stating that the Benefit was available to workers who "stopped working because of reasons related to COVID-19 **or** were eligible for Employment Insurance regular or sickness benefits **or** have exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020", which described the situation of the Applicant, as per point 4 above.
3. An additional update on April 15, 2020 indicated that "CERB Will Include Those Out of EI" and "The Benefit is **also** available to workers who, after March 15, are eligible for Employment Insurance regular or sickness benefits", which through its wording was interpreted as a criterion that could apply on its own and which applied to the Applicant, as per point 4 above.
4. Mr. Nguyen continued receiving CERB benefits without any indication of being ineligible during the period during which benefits were received.
5. Mr. Nguyen was provided with a contact number for a CRA agent ("the Agent") in order to discuss the case via a voicemail from the Agent, but despite multiple daily calls during regular business hours was not able to reach the Agent or receive a callback during the period of the review of eligibility, preventing an explanation or justification for the Applicant's CERB application.

This application will be supported by the following material:

1. CERB Eligibility Criteria List from the Canada.ca website

2. Letter to CRA (March 10, 2023)
3. Second review letter – no adjustment

The Applicant requests that the Minister send a certified copy of the following material that is not in the possession of the Applicant but is in the possession of the Minister to the Applicant and to the Registry:

- Any and all records pertaining to the Applicant's receipt of the CERB and determinations about his eligibility for it;
- Any and all records considered by the decision-maker(s).

The Applicant requests that this Application be heard together with the Applicant's Application for Judicial Review of the decision of the CRA dated September 10, 2023, that the Applicant is ineligible for the CERB.

October 5, 2023

A handwritten signature in blue ink, appearing to read 'Dat Viet Nguyen', with a horizontal line underneath the name.

Dat Viet Nguyen
692 ABANA RD
MISSISSAUGA ON L5A 1H4
289-232-3937

SOR/2021-151, s. 22