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January 11, 2024 11 janvier 2024			
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Court File No.

FEDERAL COURT

BETWEEN:

Leonard Mehmeti

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION UNDER section 18.1 of the Federal Courts Act, RSC 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 (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:

Issued by:

(Registry Officer)

Address of local office: 180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

TO: **THE ADMINISTRATOR**
Federal Court

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 in respect of the Canada Revenue Agency's decision to deny the Applicant's eligibility for the Canada Emergency Recovery Benefit (CERB): September 27th, 2020. On behalf of the Minister of Employment and Social Development and by letter dated December 12th, 2023 and bearing reference number C0052632739-001-45, the CRA informed the Applicant that the Applicant is not eligible for the benefit. The CRA officer concluded that Mr. Mehmeti was ineligible because he had not had a 50% reduction in his average weekly income due to COVID-19.

The Applicant makes application for:

1. An Order setting aside the decision of the CRA dated December 12th, 2023 that the Applicant is ineligible for the Canada Recovery Benefit (CRB).
2. An Order directing the Minister to find that the Applicant is eligible for Canada Recovery Benefit (CRB);
3. 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 payments, with such directions as this Honourable Court considers just and appropriate; and,
4. Such further or other relief as the Applicant may advise and this Honourable Court may permit.

The grounds for the application are:

1. Subsection 3(1) of the Act sets out the eligibility criteria for receiving the CRB, including the following:

Eligibility: 3(1) <u>A person is eligible for a Canada recovery benefit</u> for any two-week period falling within the period beginning on September 27, 2020 and ending on October 23, 2021 <u>if</u>	Admissibilité: 3(1) Est admissible à la prestation canadienne de relance économique, à l'égard de toute période de deux semaines comprise dans la période commençant le 27 septembre 2020 et se terminant le 23 octobre 2021, la personne qui remplit les conditions suivantes :
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(f) <u>during the two-week period, for reasons related to COVID-19, other than for reasons referred to in subparagraph 17(1)(f)(i) and (ii), they were not employed or self-employed or they had a reduction of at least 50% or, if a lower percentage is fixed by regulation, that percentage, in their average weekly employment income or self-employment income for the two-week period relative to</u>	f) au cours de la période de deux semaines et pour des raisons liées à la COVID-19, à l'exclusion des raisons prévues aux sous-alinéas 17(1)f(i) et (ii), soit elle n'a pas exercé d'emploi — ou exécuté un travail pour son compte —, soit elle a subi une réduction d'au moins cinquante pour cent — ou, si un pourcentage moins élevé est fixé par règlement, ce pourcentage — de tous ses revenus hebdomadaires moyens d'emploi ou de travail à son compte pour la période de deux semaines par rapport à :
(i) in the case of an application made under section 4 <u>in respect of a two-week period beginning in 2020, their total average weekly employment income and self-employment income for 2019 or in the 12-month period preceding the day on which they make the application, and</u>	(i) tous ses revenus hebdomadaires moyens d'emploi ou de travail à son compte pour l'année 2019 ou au cours des douze mois précédant la date à laquelle elle présente une demande, dans le cas où la demande présentée en vertu de l'article 4 vise une période de deux semaines qui débute en 2020,
(ii) in the case of an application made under section 4 <u>in respect of a two-week period beginning in 2021, their total average weekly employment income and self-employment income for 2019 or for 2020 or in the 12-month period preceding the day on which they make the application;</u>	(ii) tous ses revenus hebdomadaires moyens d'emploi ou de travail à son compte pour l'année 2019 ou 2020 ou au cours des douze mois précédant la date à laquelle elle présente une demande, dans le cas où la demande présentée en vertu de l'article 4 vise une période de deux semaines qui débute en 2021;

2. Mr. Mehmeti arrived in Canada in July 2019 on a closed work permit and worked at *SOTIRIS Restaurant* as a full time cook until March 15th, 2020. From March 15th, 2020 until July 2020 *SOTIRIS Restaurant* closed due to COVID-19. During this period Mr. Mehmeti was unable to work. When the restaurant reopened in July 2020 Mr. Mehmeti resumed working with **reduced hours by more than 50% compared** to the prior months unaffected by COVID-19. On September 27, 2020, Mr. Mehmeti sought to apply for the CRB as soon as the program started as his work hours remained reduced by more than half.

3. Based on the CRB agent's request, Mr. Mehmeti provided a copy of his pay stubs dated from September 2020 until October 2021. Later on he was asked to provide pay stubs copy from October 2019 until December 2019. The weekly income of each month from October 2019 up to March 2020 is inevitably twice higher than the weekly income received after the reopening of the restaurant during the pandemic in July of 2020. **If we take for example the bi-weekly pay stub of October 13th, 2019 to October 26th, 2019** (with lowest working hours before the pandemic), there was a total income of \$961.87 or **\$480.93 per week**. On the other hand, the total income of an average working week during COVID-19, such as the pay stub dated from **October 11th, 2020 to October 17th, 2020 is \$220.58 per week**. This proves once again the reduction of 50% of average weekly employment due to COVID-19 based on subsection 17(1)(f)(ii) of the Act.
4. After receiving the first negative response Mr. Mehmeti contacted the agent in confusion as to how they arrived at these calculations and was informed that the net income of 2019 and 2020 would both be divided by 52 (weeks) and then by 2, and compared in regards to each other. The income that Mr. Mehmeti earned in 2019 was worth only for six months but was still divided by 52 weeks (1 year). Based on the T4 Statement of Remuneration Paid of 2019, Mr. Mehmeti had a **total Employment Income of \$15,999.34 while he was only in Canada since July 2019, and on the T4 Statement of 2020 his total Employment Income was \$14,473.00 while he was in Canada for the full year**. This might be a similar amount, but in completely different circumstances. If Mr. Mehmeti would have resided in Canada since the beginning of 2019 and would have worked under the same conditions his Employment Income would have been expected to be twice as high as \$15,999.34, and that would have been a fair comparison between the two years. In this case comparing an income of six months with a full year would undoubtedly result improper and extremely unjust.
5. Such further and other grounds as counsel may advise and this Honourable Court may permit.

This application will be supported by the following material:

1. The CRA's letter dated December 12th, 2023 notifying the Applicant that the Applicant is ineligible
2. Documentary evidence submitted to the CRA by the Applicant.
3. Such further and other material as the Applicant may advise and this Honourable Court may permit.

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:

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

January 11th , 2024

LEONARD MEHMETI

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702-695 Regency Court,
Burlington, ON, L7N 3H9

Applicant, self-represented