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Victoria Bell			
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## Notice of Application

### (General Heading — Use Form 66)

(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.

(Date)

Issued by: (Registry Officer)

Address of local office:

TO: Attorney General of Canada

Minister of Justice and Attorney General of Canada

284 Wellington Street

Ottawa, Ontario K1A 0H8

# Application

## **The applicant makes application for:**

A judicial review of the Canada Revenue Agency's (CRA) decision finding Qianwen Yu ineligible for the Canada Emergency Response Benefit application (CERB) and Canada Recovery Benefit application (CRB). Based on the second review of the Applicant's eligibility for these programs, a Benefits Compliance Officer determined that she was not eligible as she failed to demonstrate that she met the \$5,000 requirement in employment or net self-employment income. Issued Jan 19, 2024. Reference Number: C0057905027-001-45

## **The grounds for the application are:**

- 1) Unreasonable decision by the Benefits Compliance Officer and Procedural Unfairness by CRA.
  - a) Qianwen Yu immigrated to Canada in 2016 with her husband and daughter. She sold her travel agency in China in early 2019, and started her new business in Canada in March 2019. She had business income during 2019 and 2020. Once Covid19 created the panic in Canada by April of 2020, her business came to a halt and had no business income for the rest of 2020. Qianwen Yu was evidently forced to close her business.
  - b) Qianwen Yu submitted objective evidence, along with her 2019 and 2020 tax filing documents to the first Benefits Compliance Officer showing that she had business income over \$5000 in the 12 calendar months from March 2019 to February 2020.
  - c) Due to the fact that Qianwen Yu does not speak English, she requested her husband, Wei Lin (aka Evan Lin) to speak on her behalf as her agent. As Wei Lin's English is better than his wife, Wei Lin's English is still below average (CLB level 3 - Canadian Language Benchmark).
  - d) Unfortunately the first Benefits Compliance Officer (E. Thistle) ruled she was not eligible for the CERB and CRB benefits.
  - e) Qianwen Yu (Wei Lin) then requested a second review, along with a request to have a fluent Mandarin speaking CRA agent be provided so both she and he could understand and comply to the details of the requests from CRA.
  - f) Upon receiving the second review from CRA, she did not get a fluent Mandarin speaking agent to review her file, but rather, had a CRA agent with a thick accent who was very difficult to understand on the phone. It should be noted that both parties had

difficulty understanding each other.

g) Throughout the second lengthily phone conversation with the new reviewing CRA agent (Tien Bui), Qianwen Yu and Wei Lin continuously asked for clarification and for the CRA agent to “speak slowly” and “to repeat the sentence” so they could understand what the requests being made were. This second phone interview ended unsuccessfully and the CRA agent did not provide any conclusion or correspondence about the decision.

h) On January 9, 2024 Qianwen Yu received an email notification from the CRA, without giving a reason, concluding that the applicant did not meet the requirements.

i) According to the Taxpayers Bill of Rights (RC17(E) Rev. 23) section 2 outlines taxpayers should be “**served in the official language of your choice**”. However, Qianwen Yu and Wei Lin feel this was not considered and was the cause of the confusion and misrepresentation of facts during both reviews.

<https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc17/taxpayer-bill-rights-guide-understanding-your-rights-a-taxpayer.html#toc5>

**This application will be supported by the following material:**

1. Second review letter - no adjustment of CERB and CRB
2. Letter of request for second review (including request for a Mandarin speaking CRA agent to assist in the communication).
3. Summary of self-employment income in 2019 and 2020
4. Proof of self-employment income in 2019 and 2020 including bank, Wechatpay Alipay transfer records (screenshots).
5. Invoices for services rendered.
6. Case Law from Cameron v. Canada (Attorney General), 2024 FC 2 (File number: T-979-23)

February 5, 2024

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