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I S S U E D	FEDERAL COURT COUR FÉDÉRALE May 03, 2024 03 mai 2024
Josephine Chan	
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Court File No.:

FEDERAL COURT

BETWEEN:

MORGAN SHEARDOWN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT(S):

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on the following page.

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, Ontario.

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 prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the Applicant's solicitor, or where 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.

Dated: _____

Issued by: _____
(Registry Officer)

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

TO:

ATTORNEY GENERAL OF CANADA

Department of Justice Canada
Ontario Regional Office
National Litigation Sector
120 Adelaide Street West Suite #400
Toronto, ON M5H 1T1

APPLICATION

A. DECISION UNDER REVIEW

1. This is an application for judicial review regarding the decision dated April 3rd, 2024, rendered by Jaskiran T of the Canada Revenue Agency (“**CRA**”), concerning the Applicant’s request for a Second Review of his Canada Emergency Response Benefit (“**CERB**”) application (Reference Number C0059625732-001-45). The decision under review is hereinafter referred to as the “**Second Review Decision**”.

B. ORDER SOUGHT

2. The Applicant respectfully makes an application for:
 - a. an order of *certiorari* quashing the Second Review Decision and referring it back to the CRA for reconsideration;
 - b. the costs of this application; and
 - c. such other relief as this Honorable Court may deem just.

C. GROUNDS OF THIS APPLICATION

3. The grounds for the application are as follows:
 - a. The Applicant is a self-employed artist who runs his business under the name Morgan Sheardown-Raining Cows. As a self-employed artist, most of his income is generated from participation in art shows.
 - b. In 2019, the Applicant carried on a business and earned gross and net income of \$6,845.
 - c. The Applicant has suffered from mental health challenges over the last twelve years and continues to rely on financial assistance from his parents.
 - d. His diagnoses include PTSD traumatic Stress Disorder, Anxiety and Depression. Additionally, in 2023, the Applicant was also diagnosed with bipolar disorder.
 - e. The Applicant applied for and received CERB payments for March 15th 2020, to September 26th 2020 period.
 - f. The Applicant also applied for and received payments under the Canada Emergency Response Benefit (“**CRB**”).
 - g. In or around January 2023, the CRA requested documents and clarification regarding the Applicants income to determine his eligibility for previously collected CERB payments. The Applicant responded with a letter dated February 13th, 2023, along with

a fax of the same date, providing documentation such as proof of payments collected from his art shows to support his income.

- h. On May 19, 2023, the CRA issued letters to the Applicant stating that he was not eligible to receive the CERB or CRB payments because he did not earn at least \$5,000 (before taxes) of employment income or net-self-employment income in 2019 or in the 12 months before the date of his first application (“**First Review Decision**”).
- i. The CRA issued the First Review Decision without properly reviewing the submitted documents; consequently, the Applicant requested a review of the decision on June 15th, 2023.
- j. On March 28th, 2024, the Applicant provided further support of his income from 2019 with included a summary and explanation of his reported income from 2019, and explanations concerning his business expenses.
- k. The Applicant has provided CRA with proper documentation which have included bank statements, oral and written explanations, and documentation such as a GST/HST return from 2019, Income Tax Return for 2019, Income Tax Return for 2020, to demonstrate his eligibility for the CRB payments he received.
- l. On April 3rd, 2024, the CRA issued a second decision letter in respect of the CRB, and CERB payments. The CRA determined the Applicant was not eligible for the CERB payments he received because he did not earn at least \$5,000 (before taxes) of self-employment income in 2019 or in the 12 months before the date he applied for the CERB payments.
- m. The Second Review Decision is unreasonable because the CRA failed to properly consider the information and documentation provided by the Applicant to support his eligibility for the CERB payments.

D. DOCUMENTARY EVIDENCE

- 4. This application will be supported by the following material:
 - a. the affidavit of Morgan Sheardown
 - b. such other material as counsel may advise and this Honorable Court permit.

E. DOCUMENTATION REQUESTED

- 5. Pursuant to Rule 317(2), the Applicant requests the Respondent to provide the following materials relating to the First Review Decision and the Second Review Decision that are not in the possession of the Applicant but are in the possession of the CRA:
 - a. all correspondence between the Applicant and the CRA;

- b. CRA's internal memos and notes of discussions; and
- c. all working papers and analyses in the records of the CRA.

Dated May 03, 2024.



Beitel Tax Law
Counsel for the Appellant

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