

**FORM 301 Rule 301
Notice of Application**

Court File No. **T-2507-22** ID 1

FEDERAL COURT

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BETWEEN:

XINGYUAN MAI

Applicant(s)

-and-

CANADA REVENUE AGENCY

Respondent(s)

APPLICATION UNDER sections 18 and 18.1 of the Federal Courts Act

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 Federal Court, 180 Queen Street West, 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 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) 26-Nov-2022

Issued by: (*Registry Officer*) Aline Longin
Registry Officer

Address of local office:

90 Spraks street Ottawa On

TO:

Canada Revenue Agency

Sudbury tax centre
Post Office Box 20000, Station A
Sudbury ON P3A 5C1

Application

(Where the application is an application for judicial review)

This is an application for judicial review in respect of: the decision of the second review for applicant's Canada Emergency Response Benefit (CERB) application, made by Canada Revenue Agency on October 27, 2022 (with the notification to the Applicant on October 27, 2022). The decision stated that the applicant is not eligible for CERB because the following criteria was not met:

- The applicant did not earn at least \$5,000 (before taxes) of employment or self-employment income in 2019 or in the 12 months before the date of applicant's first application.

Thus, the application has been denied and the applicant will be required to repay all CERB payment.

The applicant makes application for:

- a. A declaration that the applicant's 2019 self-employment income is valid and over \$5,000 (before taxes).
- b. An order for Respondent to revoke the decision with respect of the fact that the applicant did earn at least \$5,000 (before taxes) of self-employment income in 2019, that the applicant is eligible for CERB.

The grounds for the application are: *(State the grounds to be argued, including any statutory provision or rule relied on.)*

1. The Respondent has made an incorrect determination of applicant's CERB eligibility based on the evidence. The applicant is eligible for CERB if the individual earned at least \$5,000 (before taxes) in the year of 2019 or in the 12 months before the date of applicant's first application.
2. The CRA's decision and the way by which the CRA reached its decision lack of reasonableness given the facts below:
Applicant had filed 2019 tax return for gross self-employment income of \$5,803.20 and received Noticed of Assessment from CRA. The applicant also provided service invoices and proof of payments received (bank statements).

This application will be supported by the following material:

(List the supporting affidavits, including documentary exhibits, and the portions of transcripts to be used.)

1. CRA's decision letter of the second review of Applicant's CERB application
2. The detailed criteria for CERB eligibility made by CRA
3. Applicant's 2019 Notice of Assessment
4. Applicant's 2019 Tax Return
5. Applicant's bank statement as the proof of 2019 income
6. Applicant's T4A (part of 2019 income)
7. Service invoices as the proof of 2019 income

November 26, 2022

 Nov. 26 2022

(Signature of solicitor or applicant)

XINGYUAN MAI

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[SOR/2021-151, s. 22](#)