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Court File No.

FEDERAL COURT

B E T W E E N:

(Court seal)

NITA GUILLEMETTE

Applicant

and

MINISTER OF NATIONAL REVENUE

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

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 *(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.

June 13, 2024

Issued by: _____

Federal Court of Canada
Toronto Registry Office
180 Queen Street West
Toronto, ON M5V 1Z4

TO: **THE MINISTER OF NATIONAL REVENUE**
7th Floor
555 MacKenzie Avenue
Ottawa, ON K1A 0L5

Application

THIS IS AN APPLICATION FOR JUDICIAL REVIEW, made in accordance with section 18.1 of the *Federal Courts Act*, in respect of the following the decisions of the Minister of National Revenue (the “Minister”), each dated May 21, 2024:

1. The Applicant was not eligible for the Canada Emergency Response Benefit (CERB);
and,
2. The Applicant was not eligible for the Canada Recovery Benefit (CRB).

The Applicant, Nita Guillemette, makes application for:

- (a) an Order quashing the decision of the Minister;
- (b) alternatively, and Order remitting the matter back to a different delegate of the Minister for redetermination;
- (c) to any extent necessary, an Order extending the time in which to file this Application for Judicial Review;
- (d) the costs of this proceeding, plus all applicable taxes; and
- (e) Such further and other relief as to this Honourable Court may seem just.

The grounds for the application are:

- (a) By letter, dated May 21, 2024, the Applicant was notified of the Minister's decision on a second review of the Applicant's Canada Recovery Benefit (CRB) Application, that the Applicant was not eligible for the CRB, for the following reason:
 - (i) The Applicant did not earn at least \$5,000 (before taxes) of employment and/or net self-employment income in 2019, 2020, or in the 12 months before the date of the application for the CRB;
- (b) By letter, dated May 21, 2024, the Applicant was notified of the Minister's decision on a second review of the Applicant's Canada Emergency Response Benefit (CERB) Application, that the Applicant was not eligible for the CERB, for the following reason:
 - (i) The Applicant did not earn at least \$5,000 (before taxes) of employment and/or self-employment income in 2019 or in the 12 months before the date of the first application for CERB.
- (c) The Applicant earns self-employment income from two sources; a Rehabilitation Therapist, and a dog sitting business operated by the Applicant.
- (d) In 2019, the Applicant earned net business income from all sources, totalling \$5,144.24, which was reported in her Income Tax Return for the 2019 Taxation Year.

- (e) In the twelve months prior to the Applicant's applications for CRB and CERB, the Applicant earned a total of \$5,545.53 of self-employment income from her work as a Rehabilitation Therapist, and her Dog Sitting Business.
- (f) The Minister's Decision was unreasonable for the following reasons:
 - (i) It errantly interpreted the provisions of the *Income Tax Act* with respect to income generated from business or property (in particular section 9 of the *Income Tax Act*);
 - (ii) It erred in law in concluding that the income earned by the Applicant during the relevant periods was not self-employment income;
 - (iii) It failed to consider and/or address the evidence provided by the Applicant to support the income she had earned in 2019, and in the 12 months prior to her application for CRB and CERB;
 - (iv) The Minister made a palpable and overriding error of fact in concluding, notwithstanding the evidence to the contrary, that the Applicant did not at least \$5,000 of self-employment income during the relevant period(s) of determination;
- (g) Section 18.1 of the *Federal Courts Act*, R.S.C. 1985 c. F-7, and subsections 216(4) and 220(3) of the *Income Tax Act*, R.S.C, 1985, c. 1 (5th Supp.).
- (h) Such further and other grounds as the lawyers may advise.

This application will be supported by the following material:

- a) Affidavit of Nita Guillemette, to be sworn, with all attached exhibits.

Rule 317 Request

The Applicant hereby requests, pursuant to Rule 317 of the *Federal Court Rules*, SOR/98-106, all material that is in the possession of the Respondent, that was reviewed and/or relied upon when making the decision.

June 13, 2024



(Signature)

NITA GUILLEMETTE

29 Kenny Cres.

Barrie, ON L4N 6C9

Tel: 705-220-9136

Applicant