

Citation: *C. N. v. Canada Employment Insurance Commission*, 2014 SSTGDEI 61

Appeal #: GE-14-1121

BETWEEN:

C. N.

Claimant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance

SOCIAL SECURITY TRIBUNAL MEMBER: Teresa Jaenen

HEARING DATE: May 21, 2014

TYPE OF HEARING: Teleconference

DECISION: Appeal is dismissed

PERSONS IN ATTENDANCE

Mr. C. N., the Claimant attended the hearing.

Mrs. N., the Claimant's spouse attended the hearing.

DECISION

[1] The Tribunal finds the request of an antedate is denied because the Claimant did not show there was good cause for the delay during the complete period of the delay.

INTRODUCTION

[2] On July 26, 2013 the Claimant made an initial claim for employment insurance benefits effective July 21, 2013. On December 13, 2013 the Canada Employment Insurance Commission (Commission) denied benefits to start on the early date of February 3, 2012 because he did not prove he had good cause to apply late for benefits. On January 13, 2014 the Claimant made a request for reconsideration. On February 14, 2014 the Commission maintained its original decision and the Claimant appealed to the Tribunal.

FORM OF HEARING

[3] After reviewing the evidence and submissions of the parties to the appeal, the Tribunal decided on a teleconference for the reasons in the Notice of the Hearing dated April 17, 2014.

ISSUE

[4] The Tribunal must decide whether the Claimant should be allowed an antedate of his initial claim for benefits pursuant to subsection 10(4) of the *Employment Insurance Act* (the Act) because he had good cause for the delay throughout the entire period.

THE LAW

[5] Subsection 10(4) of the Act states an initial claim for benefits made after the day when the Claimant was first qualified to make the claim shall be regarded as having been

made on an earlier day if the Claimant shows that the Claimant qualified to receive benefits on the earlier day and that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the initial claim was made.

EVIDENCE

[6] A record of employment indicates the Claimant was employed with Sonepar from August 20, 2012 to February 2, 2013 and he left his employment due to termination and restructuring.

[7] The Claimant applied for employment insurance benefits on July 26, 2013.

[8] On August 6, 2013 the Claimant made an application to antedate his claim for benefits to February 4, 2013.

[9] On October 23, 2013 the Claimant submitted a request to the Commission that he had not received a response to his antedate application.

[10] On November 22, 2013 the Claimant submitted a subsequent request to the Commission has he had not received a response to his antedate application.

[11] The Claimant received upon his separation from his employment \$2788.47 in lieu of wages, a \$10,000.00 bonus, \$11,000.00 severance pay and \$3111.96 in vacation pay.

[12] On May 3, 2014 a letter from Dr. David Sedran, the Claimant's family physician indicated the Claimant was under extraordinary and unusual stress related to his job loss, family illness and financial pressure. Dr. Sedran was aware of the circumstances throughout the year of 2013. The Claimant's wife is severely disabled and requires multiple medications. She became seriously ill in 2013 and received troubling test results that also affected the Claimant's state of mind. In the same letter, Dr. Sedran stated from his perspective, and his professional opinion, the Claimant's mental state was significantly impaired by the psychological stresses he was experiencing and affected his decision-making and ability to cope.

SUBMISSIONS

[13] The Claimant submitted that:

- a) He believes he falls within the case law of *Albrecht* (A-172-85) where it was decided and spoke of being flexible in finding whether the applicant showed “good cause” as to why he or she was late in applying for benefits and that the court found in favor of the Claimant’s application that was delayed because it was believed that the severance package funds had to be exhausted before he would be entitled;
- b) He made a mistake on the his calculation when his EI benefits should have begun when he calculated his severance pay would not run out until June 25, 2013;
- c) The Commission is aimed at using the legislation to find a way to prevent him from receiving benefits rather than trying to assist him in qualifying for benefits or investigating his reasons sufficiently to find that there was good cause behind the delay in filing;
- d) He was honest when he reported his bonus, severance and vacation pay allocations when he made his Application to Antedate Claim for Benefits on August 6, 2013 as they were different than what was reported on his record of employment;
- e) The Commission should have disclosed that he was honest when he disclosed the correct amounts of the bonus, severance and vacation pay as this speaks to the honesty and good faith behind his claim to antedate his EI benefits;
- f) The Commission was silent about the fact his EI claim was improperly closed by the Commission after he submitted his request to antedate his claim and before any decision on the antedate was reached;
- g) He has several reasons to explain his delay in applying for EI benefits which should be considered together as a whole and not individually;

- h) He believed because of his previous EI experience that monies would be allocated out based on normal weekly earnings and that the severance package funds would have to be exhausted before being entitled to EI benefits;
- i) He does not believe his reliance on his past experiences with EI should be dismissed so easily by the Commission. He believes it is a very relevant factor in deciding whether he acted reasonably in delaying his claim for benefits;
- j) He relied on prior experience with EI's permissive approach to permitting the antedating of EI claims;
- k) He has been on EI in prior years but did not have any issues as he had applied on time, with the exception of once several years ago when he didn't file on time and was allowed an antedate. He could not remember when he was allowed the antedate but he was on benefits in 2009 and there were no issues;
- l) He contacted Service Canada to confirm that the monies would be allocated based on his normal weekly earnings and to file when the severance ended;
- m) The Service Canada website clearly sets out that wages, vacation pay and severance pay are earnings that are deductible from EI benefits and would delay the date on which one begins to receive benefit and would delay the date on which he would receive benefits;
- n) He received misinformation from EI;
- o) He believes it is unreasonable for a Claimant to expect, that once he contacts EI for information and advice, EI would provide him with accurate and complete information to assist him in successfully applying for benefits;
- p) The Commission relies on *Machel (2012 FCA 202)* in terms of not relying on Service Canada website to deal with the specifics of every person's particular situation. He did not rely on the website to deal with the specifics of his particular situation, but he did rely on the Service Canada website to confirm the advice he

received from Service Canada over the phone and to confirm again the general principal that he had learned from his past experience with EI, that any earnings received by a claimant at the termination of his employment will delay his entitlement to EI benefits;

- q) The Commission relies on CUB 73573 for the idea that it is incumbent upon the Claimant to take steps to inquire about his rights and responsibilities with respect to a claim for benefits. However, he did make such an inquiry which confirmed his understanding that his severance package would have to be exhausted before he was eligible for benefits. The Claimant cites the decision in *Stoate* CUB 33900A which suggests that it would be unreasonable for him to be expected to inquire over and over and over again when his repeated experience with the EI system from past claims and from the Service Canada website that his severance package would needed to be exhausted before he would qualify for benefits;
- r) He didn't want to be a burden on the system and he had expectations that he would be employed and earning money before he would be entitled to EI benefits. He was aggressively searching for new employment and it appeared he would be close to being offered employment on more than one occasion however it was difficult to find a new position and he was off longer than expected and longer than past experiences;
- s) He was experiencing difficult circumstances and in a conversation with the Commission, they did not consider what effect this was having on him and when he could not provide exact dates this appeared to be the end of the investigation;
- t) The Commission never asked further questions on the issue or requested a medical certificate to help his case;
- u) He was distressed because he was in a disadvantaged position in the telephone conversation with the Service Canada agent because he was at work and unable to talk freely and whatever he said or could not say during this conversation appears to have been used against him;

- v) The Commission misquoted him and made an inaccurate statement of one of his reasons in why he delayed his claim. His statement was taken out of context and appears to be used against him. Specifically the Commission stated “he didn’t even think of applying for EI since his employer had issued severance pay” and the actual quote is that stress was why he didn’t even think of applying for EI as set out below: “It may be important for you to consider that I was going through a very difficult time since my job loss in February 2013, not only dealing with the job loss and trying desperately to find work but my wife was and remains very sick and she was told that she could have a stroke at any time. I was so stressed that I didn’t even think of applying for EI and since my employer had given me severance pay I didn’t think that I could apply for EI”;
- w) The Commission’s representation of *Shebib* (A-24-01) and *Bradford* (A-313-11) do not apply in his case and he resents that the Commission appears to be trying to corral him with others who may have thumbed their nose at the system in other cases. He counters with CUB 42826 which supports the view that a claimant’s attitude with respect to EI is that it should only be used as a last resort and this was the reason the claimant did not apply for benefits and that she preferred to look for work without claiming EI which was not a bar to allowing the antedate;
- x) He takes exception to the fact Commission that makes ado of his delay of one month in filing for benefits. In the Commission’s own view, the amount of delay should not have mattered if there was a reasonable reason for it and so it is unacceptable that he was criticized by the agent of the Commission and this played a role in denying his request to antedate his benefits when that was not important or relevant to deciding his claim;
- y) He refers to CUB 56969 which states “[t]he claimant delayed ... out of conviction that his situation would be quickly resolved and that he would not be unemployed and would therefore not have to apply for benefits.” Even though it took longer than he had expected his situation resolved and he was able to be reinstated in his

employment. In respect of his late application for EI benefits, he was found to have acted as a prudent person and the Court found: “To prevent him receiving benefits would be to impose a very restrictive approach to the interpretation of reasonableness.”;

- z) He further refers to CUB 58234 which states “Where the claimant expected to be employed soon and so delayed in applying for EI benefits for that reason, he was found to have acted as a reasonable person would have done in similar circumstances and his claim was successfully antedated”.
- aa) CUB’s 52237, 13249, 71047, and 57950 support his position where he had good cause for the delay because he was provided with misinformation from the Commission which delayed his application for benefits;
- bb) CUB’s 67043, 46079 and 46663 support his position there was good cause for the delay in applying for EI benefits since he believed that the severance pay had to be exhausted first;
- cc) CUB 25870 supports his position he had good cause for the delay based on his past his past experiences with EI;
- dd) His letter from Dr. Sedran, family physician, dated May 3, 2014 supports his appeal to allow the antedating of his EI benefits. After his lay off in February he was looking for work, then in May his wife’s medical condition worsened and his job searches were not panning out. His wife’s medical condition continued to be severe into June and July and during that time everything seemed to snowball. The additional costs of medication and all the bills were piling up. He believed his severance would be finished and he would be eligible for EI benefits by summer;
- ee) EI is supposed to be a support for people and all he was only asking for a little understanding. He believes the Commission mishandled his file when he filed for an antedate and then they chose a route that would not make them look bad which he believes is unfair; and

ff) In light of the good faith and honesty he has expressed in his file, he does not believe the integrity of the EI system and its policies would be offended at all if there is a finding of good cause for the delay in this case and his application is approved.

[14] The Respondent submitted that:

- a) The Claimant did not act like a reasonable person in his situation would have done to verify his rights and obligations under the Act;
- b) The Claimant stopped working on February 2, 2013 and a record of employment was issued February 6, 2013;
- c) The Claimant was informed on the record of employment how to apply for EI benefits and that if he delayed filing his claim for more than four weeks after he stopped working, he may lose benefits;
- d) The Commission has no record of the Claimant applying or inquiring about applying until his application of July 26, 2013;
- e) The Claimant initially stated the reason for his delay was that he tried to make it as long as he could without claimant employment insurance so that he wasn't a burden on the system. He didn't even think of applying for EI since his employer has issued severance pay; and
- f) The Claimant's circumstances were not exceptional and that he has not shown that his decision not to apply was reasonable under the circumstances.

ANALYSIS

[15] In accordance with the legislation, it is possible to allow an antedate of an initial claim for benefits providing the claimant qualified to receive the benefit on the earlier date and there was good cause for the delay during the complete period of the delay.

[16] In the case at hand the evidence in the file indicates the Claimant would have qualified for benefits on the earlier date.

[17] Thus the issue is whether there was good cause for the delay throughout the entire period. Throughout the initial application to antedate, his request for reconsideration and his appeal to the Tribunal, the Claimant has raised several arguments in support of his antedate request.

[18] The Claimant stated he believes he falls within the case law of *Albrecht* (A-172-85) where it spoke of being flexible in finding whether the applicant showed “good cause” as to why he or she was late in applying for benefits and that the courts found in favor of the Claimant’s application was delayed because it was believed that the severance package funds had to be exhausted before he would be entitled to benefits. In the case at hand the Claimant presents the argument that he received a severance package and he had tried to make it as long as he could without claiming employment insurance so that he wouldn’t be burden on the system.

[19] In this case, the Claimant provided oral evidence he didn’t feel there was a rush to apply for benefits due to his severance pay and because of his previous experience with EI as he knew that the monies would be allocated based on normal weekly earnings and that the severance package funds would have to be exhausted before being entitled to EI benefits. He stated he contacted Service Canada to confirm that the monies would be allocated based on his normal weekly earnings and to file when the severance ended which he calculated this period to be around the end of June.

[20] In this case the Tribunal finds the facts in *Albrecht* present the similarity of the delay in filing because the Claimant received a severance package; however the Tribunal finds there are facts that dispute the Claimant’s argument. The facts in the *Albrecht* case recognize the claimant in that case, did not apply for benefits because he was advised by his ex-employer that he could not apply for benefits until his severance pay was exhausted. It also states that the claimant had never had anything to do with Unemployment Insurance in thirty-three years of employment. This differs in the case before the Tribunal, the Claimant

was not misinformed by his employer and he has a great deal of experience with employment insurance, and from his own admission has a personal experience dealing with the issue of an antedate. In this case, the Claimant provided documentary and oral evidence that because this was not the first time he had applied for an antedate and he never had a problem having it antedated in the past he relied on the permissive approach of the Commission in permitting applicants in need to antedate their claims. The Claimant also provided oral evidence that he has had previous employment insurance claims in 2009 and 2010 with no issues, and that he had filed within the 4 week time period.

[21] In the case of *Albrecht* the claimant's ignorance of the law constituted good cause, however the Tribunal does not see how the reason of ignorance of the law can be justified and applied in this case. *Albrecht* states when a claimant has not filed his claim in a timely manner and his ignorance of the law is ultimately the reason for his failure he ought to be able to satisfy the requirement of good cause when he is able to show that he did what a reasonable person in his situation would have done to satisfy himself as to his rights and responsibilities under the Act. In this case the Tribunal finds the Claimant has not proven he was reasonable in his actions and he has not shown good cause for the delay therefore an argument of ignorance of law is not valid and cannot be justified.

[22] The Claimant presents the argument that the Commission representation of *Shebib* (A-24-01) and *Bradford* (A-313-11) do not apply in his case and he resents that the Commission appears to be trying to corral him with others who may have thumbed their nose at the system in other cases. He counters with CUB 42826 which supports the view that a claimant's attitude with respect to EI is that it should only be used as a last resort and this was the reason the claimant did not apply for benefits and that she preferred to look for work without claiming EI which was not a bar to allowing the antedate

[23] In this case, in *Shebib* (A-24-01) Justice Rothstien wrote: "The applicant says there is no need to apply for employment insurance benefits until an individual is ready to make a claim and, as reasonable as it sounds, it is not in accordance with the jurisprudence. Nor is it in accordance with the general approach of the Commission that it should know when a person becomes unemployed so that it has the opportunity to find out an individual's

availability for employment and his or her actively to find a new job as soon as unemployment occurs”.

[24] In the case, the Tribunal finds from the Claimant’s oral evidence supports the findings in *Shebib* apply as he testified that he felt there was no rush to apply for benefits because of his severance pay, he was looking for employment and he didn’t want to be a burden on the system. The Tribunal finds the Claimant’s reasons to wait to apply and the fact it took it upon himself to determine when that would be may have been good reasons not to apply, however they are not in accordance with the jurisprudence and are not considered good cause. As in *Shebib*, the Claimant made a conscious choice not to apply until after his severance pay was exhausted and was denied the antedate.

[25] The Claimant presents the argument that the Commission relies on CUB 73573 for the idea that it is incumbent upon the Claimant to take steps to inquire about his rights and responsibilities with respect to a claim for benefits. The Claimant further argues that he did make such an inquiry which confirmed his understanding that his severance package would have to be exhausted before he was eligible for benefits. The decision in *Stoate* CUB 33900A suggests that it would be unreasonable for him to be expected to inquire over and over and over again when his repeated experience with the EI system, his past claims and from the Service Canada website clarified his severance package would need to be exhausted before he would qualify for benefits. The Service Canada website clearly sets out that wages, vacation pay and severance pay are earnings that are deductible from EI benefits and would delay the date on which one begin to receive benefit and would delay the date on which he would receive benefits. He believes it is unreasonable for a Claimant to expect, that once he contacts EI for information and advice, EI would provide him with accurate and complete information to assist him in successfully applying for benefits. He testified he received misinformation from EI.

[26] The Claimant also disagrees with the Commission as it relies on *Machel* (2012 FCA 202) in terms of not relying on Service Canada website to deal with the specifics of every person’s particular situation. He did not rely on the website to deal with the specifics of his particular situation, but he did rely on the Service Canada website to confirm the advice he

received from Service Canada over the phone and to confirm again the general principal that he had learned from his past experience with EI, that any earnings received by a claimant at the termination of his employment will delay his entitlement to EI benefits.

[27] The Tribunal finds in the facts presented, it cannot be said that the Claimant was misled by the Commission and, as he testified, he never inquired to the Commission specifically to his circumstance but only to a general inquiry of his severance pay and allocation of such. Therefore it cannot be said the Claimant was misinformed concerning his rights and obligations with respect to applying for and entitlement to benefits when he did not enquire about them. The Tribunal finds it is not the responsibility of the Commission to inform possible claimants of their right to obtain EI benefits when they lose their jobs, but a person who involuntarily loses his job is expected to take action to inform the Commission of his unemployment and inquire in more detail to the consequences of filing his claim, especially when the Claimant had experience with an antedate.

[28] The Tribunal relies on CUB 78128 which states “Without an amendment to the legislation or a more flexible interpretation of the words “good cause” by the Federal Court of Appeal, Umpires are bound to apply the law as interpreted by that Court. At this time failure by a Claimant to inquire about his rights and obligation at the time of lay-off or shortly thereafter without a valid explanation will prevent the granting of an antedate. The fact that a Claimant decides to await the expiration of his weeks of severance pay to make a claim does not amount to good cause under the prevailing jurisprudence at the present time”.

[29] The Tribunal finds from the Claimant’s own admissions he has a great deal of experience with the employment insurance program and by the Claimant relying on his own assumptions on how the program worked was a personal choice. The Tribunal finds from the evidence in the file, and the Claimant’s initial reasons for his delay, the Claimant made a conscious choice at the time to look for employment, wait until his severance pay was exhausted so not to be a burden on the system and not apply for benefits.

[30] The Tribunal finds from the Claimant’s own admission, he had previously filed for benefits on time. The Tribunal finds that with the Claimant’s experience with the EI

program that he should have or ought to have known to file within the 30 day time limit. The Tribunal finds from the Claimant's oral evidence that he believed filing for an antedate would only mean paperwork and that because the Commission had allowed him an antedate in the past, there should be no issue to have his claim antedated. The Tribunal finds a person who is familiar with the EI program would expect to be more diligent and make reasonable inquiries about his rights for benefits and particular the fact the Claimant had experience with requesting an antedate in the past.

[31] The Claimant also presented the argument his personal circumstances prevented him from applying as his wife was very ill and that his mind was distracted with all these worries when he was supposed to be applying for EI. The Claimant testified after his lay off in February he was looking for work, and then in May his wife's medical condition was getting worse and his job searches were not panning out. His wife's medical condition continued to worsen into June and July and during that time everything seemed to snowball. The additional costs of medication and all the bills were piling up. He believed his severance would be finished and he would be eligible for EI benefits by summer. The Claimant stated he was suffering from unusual and exceptional stresses that impaired his decision making and ability to cope as he was deeply affected by the ill health of his wife. The Claimant provided a letter dated May 3, 2014 from Dr. David Sedran, family physician that indicated the Claimant was under extraordinary and unusual stress related to his job loss, family illness and financial pressure. Dr. Sedran was aware of the circumstances throughout the year of 2013 and stated the Claimant's wife is severely disabled and requires multiple medications. She became seriously ill in 2013 and received troubling test results that also affected the Claimant's state of mind. In the same letter, Dr. Sedran stated from his perspective, and his professional opinion, the Claimant's mental state was significantly impaired by the psychological stresses he was experiencing and affected his decision-making and ability to cope.

[32] The Tribunal sympathies with the Claimant as all these circumstances would be overwhelming but there is no evidence put forth to show that the circumstances occurred throughout the entire period of delay. The Tribunal finds from the Claimant's oral evidence that after his employment ended in February he was looking for work and it wasn't until

May that his wife's medical condition became serious. The Claimant testified he was suffering from unusual and exceptional stresses that impaired his decision making and ability to cope and provided medical evidence to support this statement. However, the Tribunal finds the evidence is inconclusive as to the extent of the Claimant's mental state. The Dr. Sedran states in his letter, that he was aware of the Claimant's stressful situation and that Claimant's mental state was significantly impaired by the psychological stresses he was experiencing and affected his decision-making and ability to cope. However there is no evidence the stress would have prevented him from filing on the earlier date. The Claimant's own admission it was not until May when his wife became seriously ill. The Tribunal finds there is no evidence to support his condition prevented him from contacting Service Canada if he was capable of doing job searches and attending interviews throughout this time. The Tribunal finds the Claimant has not shown good cause for the delay throughout the entire period.

[33] The Claimant presents the argument that he was honest when he reported his bonus, severance and vacation pay allocations when he made his Application to Antedate Claim for Benefits as they were different than what was reported on his record of employment and that the Commission should have disclosed that he was honest when he disclosed the correct amounts of the bonus, severance and vacation pay as this speaks to the honesty and good faith behind his claim to antedate his EI benefits.

[34] The Tribunal finds the issue before the Tribunal is an antedate and the Claimant's honesty is not in question, therefore the Tribunal finds the argument is not relevant in this case.

[35] The Claimant presents the argument the Commission did not take into consideration all the circumstances and difficulties he was having, nor was he given an opportunity to fully explain his situation at a time he was more comfortable with. The Claimant feels that the Commission was taking what he said or could not say during this conversation and used it against him.

[36] The Claimant testified he was experiencing difficult circumstances and in a conversation with the Commission, they did not consider what effect this was having on

him and when he could not provide exact dates this appeared to be the end of the investigation. He stated the Commission never asked further questions on the issue or requested a medical certificate to help his case. He was distressed because he was in a disadvantaged position in the telephone conversation with the Service Canada agent because he was at work and unable to talk freely and whatever he said or could not say during this conversation appears to have been used against him. He further argues the Commission misquoted him and made an inaccurate statement of one of his reasons in why he delayed his claim. His statement was taken out of context and appears to be used against him. Specifically the Commission stated "he didn't even think of applying for EI since his employer had issued severance pay" and the actual quote is that stress was why he didn't even think of applying for EI as set out below: "It may be important for you to consider that I was going through a very difficult time since my job loss in February 2013, not only dealing with the job loss and trying desperately to find work but my wife was and remains very sick and she was told that she could have a stroke at any time. I was so stressed that I didn't even think of applying for EI and since my employer had given me severance pay I didn't think that I could apply for EI".

[37] The Tribunal finds from the evidence in the file there is no evidence to support the Claimant's argument that he was treated unfairly or unjust under the Act, or that the Commission acted in an unethical manner during the fact finding. The Tribunal relies on *Beaudin (A-341-04)*. "It is worth noting that subsection 10(4) of the Act is not the product of a mere legislative whim. It contains a policy, in the form of a requirement, which is instrumental in the sound and efficient administration of the Act. On the one hand, this policy helps "to assure the proper administration and the efficient processing of various claims" and "to enable the Commission to review constantly the continuing eligibility of a claimant to whom benefits are being paid": see CUB 18145, June 29, 1999, by Umpire Joyal, and CUB 23893, June 27, 1994, by Umpire Rouleau. Antedating the claim for benefits may adversely affect the integrity of the system, in that it gives a claimant a retroactive and unconditional award of benefits, without any possibility of verifying the eligibility criteria during the period of retroactivity: see CUB 13007, December 12, 1986, and CUB 14019, August 7, 1987, by Umpire Joyal. Furthermore, a sound and equitable

administration of the system requires that the Commission engage in a quick verification that is as contemporaneous as possible with the events and circumstances giving rise to the claim for benefits: see CUB 15236A, April 30, 1987, by Umpire Strayer. Otherwise, the Commission finds itself in the difficult position of having to engage in a job or process of reconstruction of the events, with the costs and hazards pertaining to such a process. This is what explains the principle, long established by the jurisprudence of this Court, that ignorance of the Act does not excuse a delay in filing an initial claim for benefits.”

[38] The Tribunal relies on CUB 17192 which states “It has been recognized nothing is to be gained by denying benefits to people who otherwise be entitled on the mere technical grounds that they have not filed at the right time. It is with the reason in mind that Parliament has enacted the antedating provision”.

[39] The Tribunal relies on CUB 9958 which states “The policy of the Act is to confer benefits for which claimants have paid their premiums, not to arcane excuses for withholding benefits. Again, from this perspective, Parliament’s intention is enacting subsection 10(4) appears to be quite clear; the adjudicator has only to determine whether *this* claimant, in *these* particular circumstances, has shown “good cause for his delay” in applying for benefits”.

[40] The Claimant presented the argument that there was only a one month delay in applying for benefits to his estimation as he applied for benefits on July 26, 2013. In this case the Tribunal finds this is not an argument as the facts on the file show the Claimant’s last day of employment was February 4, 2013 and he did not file until July 26, 2013, which is almost a six month delay. The facts on the file show the Claimant made a personal choice to calculate his own benefit period than to apply for benefits following his lay off and allow the Commission to determine the benefit period and allocate his severance pay accordingly. In the case at hand the Claimant was not eligible for benefits for the period of allocation of the severance pay. Yet in order to maintain his insurable hours in his qualifying period he was required to apply for benefits which would not be payable for a long period of time.

[41] In the case at hand the Claimant has presented several CUBS' that he believes supports his arguments. However the Tribunal finds the cited jurisprudence does not apply to his situation. The Tribunal is sympathetic to the Claimant's situation however after considering all relevant circumstances particular to this case the Tribunal finds the Claimant did not act like a reasonable person in his situation to verify his rights and obligations under the Act and has not shown good cause for the entire delay.

CONCLUSION

[42] The appeal is dismissed.

Teresa Jaenen
Member, General Division

DATED: June 23, 2014