

[TRANSLATION]

Citation: *R. S. v. Canada Employment Insurance Commission*, 2015 SSTGDEI 101

Date: June 4, 2015

File number: GE-14-4671

GENERAL DIVISION – Employment Insurance Section

Between:

R. S

Appellant

and

Canada Employment Insurance Commission

Respondent

Decision by: Normand Morin, Member, General Division – Employment Insurance Section

In-person hearing held on May 6, 2015 in the City of Québec, Quebec

REASONS AND DECISION

PERSONS IN ATTENDANCE

[1] The hearing was initially to be held on May 6, 2015, but was adjourned as requested by Mrs. Émilie Bouchard of the firm Laroche Martin (Legal Services for the Confédération des syndicats nationaux [CSN]), who is the representative of the Appellant, Mr. R. S. A new hearing date was set for May 20, 2015 (Exhibits GD8-1 to GD8-3, GD9-1, GD9-2 and GD10-1 to GD10-4).

[2] On March 20, 2015, Mr. Étienne Poitras, of the firm Laroche Martin (Legal Services for the Confédération des syndicats nationaux [CSN]), informed the Social Security Tribunal of Canada (Tribunal) that he would attend the hearing for this case in lieu of Mrs. Émilie Bouchard. He further stated that he would be available to participate in the hearing on May 6, 2015, and that the Tribunal could keep this date if it so wished (Exhibits GD11-1 and GD11-2).

[3] On March 23, 2015, the Tribunal accepted the new adjournment request for the hearing scheduled for May 20, 2015, and set a new hearing date of May 6, 2015 (Exhibits GD10a-1 to GD10a-4).

[4] The Appellant attended the in-person hearing held in the City of Québec, Quebec on May 6, 2015. He was represented by Mr. Étienne Poitras.

DECISION

[5] The Tribunal finds that, pursuant to subsection 10(5) and section 50 of the *Employment Insurance Act* (Act), and in accordance with subsection 26(2) of the *Employment Insurance Regulations* (Regulations), the Appellant's benefits renewal claim cannot be backdated.

INTRODUCTION

[6] On August 13, 2014, the Appellant filed an initial claim for benefits effective August 3, 2014. The Appellant reported that he had worked for the employer Mont Sainte-Anne until August 1, 2014, inclusive. The Appellant reported that he had also worked for the employer

Motel et Condo Chez Charley until July 23, 2014, and that he had stopped working for this employer because of a shortage of work. The Appellant specified that this business was owned by his spouse (Exhibits GD3-3 to GD3-14).

[7] On August 18, 2014, the Respondent, the Canada Employment Insurance Commission (Commission), informed the Appellant that it had filed a request with the Canada Revenue Agency (CRA) regarding the insurability of his employment with Motel et Condo Chez Charley (2954-5134 Québec Inc.) during the period of October 22, 2013, to July 23, 2014, pursuant to section 90 of the Act. The Commission told the Appellant that it was awaiting the CRA's decision before finalizing his claim for benefits and that he was to continue completing his reports (Exhibit GD3-17).

[8] On October 14, 2014, the Appellant submitted an antedate request to the Commission in order to have his claim for benefits backdated to August 3, 2014 (Exhibits GD3-20 and GD3-21).

[9] On October 20, 2014, the Appellant filed a Request for Reconsideration of an Employment Insurance decision regarding his antedate request (Exhibits GD3-22 to GD3-24).

[10] On November 21, 2014, the Commission verbally informed the Appellant that his antedate request was denied for the period of August 3 to October 4, 2014. The Commission stated that the Appellant's benefits claim was renewed as of October 5, 2014 (Exhibits GD3-27 and GD3-28).

[11] On November 24, 2014, the Commission informed the Appellant that it was upholding its decision rendered on October 14, 2014, regarding his antedate request. The Commission explained to the Appellant that he was not entitled to Employment Insurance benefits between the periods of August 3 to October 4, 2014, because he did not submit his reports on time and because he failed to show that he had good cause for this delay. The Commission notified the Appellant that it had renewed his claim for benefits as of October 5, 2014 (Exhibits GD3-29 and GD3-30).

[12] On December 11, 2014, the Appellant submitted a Notice of Appeal with the Employment Insurance Section of the Tribunal's General Division with the aim of challenging

the reconsideration decision made by the Commission on November 24, 2014, regarding its refusal to grant him an antedate to August 3, 2014. The Appellant stated his representative as Mrs. Émilie Bouchard of the firm Laroche Martin (Legal Services for the Confédération des syndicats nationaux [CSN]) (Exhibits GD2-1 to GD2-5).

[13] On December 18, 2014, the Tribunal notified the Appellant and his representative that the Notice of Appeal submitted was incomplete. The Tribunal asked the Appellant to provide a [translation] “copy of the reconsideration decision under appeal” as soon as possible (exhibit no numbered).

[14] On January 5, 2015, the Appellant’s representative submitted to the Tribunal a [translation] “copy of the reconsideration decision under appeal” (Exhibits GD2A-1 to GD2A-4).

[15] On January 14, 2015, the Tribunal informed the Appellant and his representative that the submitted Notice of Appeal seems to have been filed after 30 days from the date that the Appellant had received the Commission’s amended decision. The Tribunal informed the Appellant and his representative that, since they were late in filing their appeal, they would have to submit a request for an extension to file the appeal with the Tribunal by February 13, 2015, at the latest (Exhibits GD2A-1 and GD2A-2).

[16] On January 21, 2015, the Appellant’s representative submitted to the Tribunal reasons to justify the delay in filing the Notice of Appeal (Exhibits GD5-8 to GD5-13).

[17] On February 10, 2015, the Tribunal granted the Appellant an extension of time to appeal before the Tribunal’s General Division. The Tribunal sent the Appellant’s representative a copy of the interlocutory decision rendered on February 10, 2015 (Exhibits GD7-1 to GD7-17).

[18] On May 20, 2015, the Commission sent to the Tribunal an additional submission to show that the documents submitted by the Appellant’s representative at the hearing on May 6, 2015, (decisions CUB 64942 and CUB 76726) failed to show that the Appellant had been prevented from completing his reports or that his claim for benefits had been denied (Exhibit GD15-1).

FORM OF HEARING

[19] This appeal hearing was held “in person” for the following reasons:

- a) The fact that the Appellant has a representative; and
- b) The information on file, including the fact that there is information lacking, as well as the need for clarification (Exhibits GD1-1 to GD1-4).

ISSUE

[20] The Tribunal must determine whether the Appellant should be granted an antedate to his claim for benefits in accordance with subsection 10(5) and section 50 of the Act, as well as subsection 26(2) of the Regulations.

THE LAW

[21] The provisions with regard to the “beginning of benefit period” are set out in section 10 of the Act.

[22] As regards “late claims” other than a late initial claim, subsection 10(5) of the Act states that:

A claim for benefits, other than an initial claim for benefits, made after the time prescribed for making the claim shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.

[23] The provisions regarding the “claim procedure” to determine “entitlement to benefits” are set out in section 50 of the Act.

[24] As regards “entitlement to benefits”, subsection 50(1) of the Act states that: “A claimant who fails to fulfil or comply with a condition or requirement under this section is not entitled to receive benefits for as long as the condition or requirement is not fulfilled or complied with.”

[25] Regarding the prescribed “time” within which a claim for benefits can be made, subsection 50(4) of the Act states that: “A claim for benefits for a week of unemployment in a benefit period shall be made within the prescribed time.”

[26] Subsection 26(2) of the Regulations states that: “(2) Where a claimant has not made a claim for benefits for four or more consecutive weeks, the first claim for benefits after that period for a week of unemployment shall be made within one week after the week for which benefits are claimed.”

EVIDENCE

[27] The following evidence is contained in the file:

- a) A Record of Employment dated August 13, 2014, states that the Appellant worked in maintenance for the employer Motel et Condo Chez Charley from October 22, 2013 to July 23, 2014, inclusive, and that he stopped working for this employer because of a shortage of work (Code A – Shortage of work/end of season or contract) (Exhibit GD3-15);
- b) A Record of Employment dated August 27, 2014, states that the Appellant worked for the employer Mont Saint-Anne from June 28 to August 1, 2014, inclusive, and that he stopped working for this employer because of a shortage of work (code A – Shortage of work/end of season or contract) (Exhibit GD3-16);
- c) On August 29, 2014, the CRA informed the Appellant that his employment with employer 2954-5134 Québec Inc. (Motel et Condo Chez Charley) during the period of October 22, 2013, to July 23, 2014, constituted insurable employment in accordance with paragraph 5(1)(a) of the Act (Exhibits GD3-18 and GD3-19);
- d) In her submission on January 21, 2015, the Appellant’s representative, Mrs. Émilie Bouchard, included a copy of the following documents:
 - i. The Appellant’s Employment Insurance statement dated October 14, 2014 (Exhibit GD5-4) ;

- ii. Letter from the Tribunal dated December 18, 2014 (Exhibits GD5-5 and GD5-6);
- iii. Letter from the Appellant's representative addressed to the Tribunal dated January 5, 2015 (Exhibit GD5-7);
- iv. The Tribunal's decision (extension of time to appeal) in *K. M. v. Canada Employment Insurance Commission* (2013 SSTGDEI 6 - appeal number GE-13-928) dated December 12, 2013 (Exhibits GD5-8 to GD5-13).

[28] The following evidence was submitted at the hearing:

- a) The Appellant reiterated the key elements in the file and the circumstances that led him to request an antedate from the Commission;
- b) He stated that he has been applying for benefits for around 30 years due to the fact that he has a seasonal job at a ski resort and also works on an on-call, as-needed basis during the summer. He stated that once a claim for benefits is completed, he submits another one, and that he has never been reproached over his claim applications.

SUBMISSIONS

[29] The Appellant and his representative, Mr. Étienne Poitras, submitted the following:

- a) The Appellant stated that he filed a new claim for benefits once he reached the end of his Employment Insurance benefits on July 27, 2014. He further stated that he filed this claim on August 13, 2014, by coming into a Service Canada office and then calling in about two weeks later to find out if he could complete his reports, but that he did not receive any automated messages (answering machine messages);
- b) He stated that he had received, in that same period, around the end of August 2014, a letter from the CRA notifying him that his employment at employer 2954-5134 Québec Inc. (Motel et Condo Chez Charley) constituted insurable employment under paragraph 5(1)(a) of the Act (Exhibits GD3-18 and GD3-19). This was in response to a letter the CRA received from the Commission on August 18, 2014, regarding the insurability of this employment (Exhibits GD3-17 to GD3-19 and GD3-25);

- c) He stated that a few weeks (around two or three weeks) after filing his claim for benefits, he received a telephone call from someone who claimed was a representative of the Commission and who informed him that his employment with Motel et Condo Chez Charley during the period of October 22, 2013, to July 23, 2014, was insurable employment within the meaning of the Act;
- d) He stated that, although he received a letter from the Commission instructing him to continue completing his reports, he was never able to do so. He stated that, in late August 2014, when began calling to do it, he received information that led him to believe that his file was still under review and he received an automated message notifying him that his file would be processed [translation] “shortly”. He stated that he continued to make his calls afterwards. In a statement made on October 14, 2014, the Appellant stated that he had never received a letter instructing him to complete his reports (Exhibit GD3-20);
- e) In statements made on November 18 and November 21, 2014, he stated that each week as of August 29, 2014, he went through the steps of calling the number 1-800-431-5595 and entering his four-digit access code, but that he always received the same message: that his claim was under review. He stated that he was not then referred to another number, that he did not receive an error message or a message instructing him to contact the Commission, and that he could not complete his reports. He stated that it did not occur to him to contact the Commission in order to find out what was happening. He further stated that he knew that he still had the same number and the same access code as he has been filing claims for benefits for several years and that he understood how the system worked (Exhibits GD3-25 and GD3-26);
- f) He stated that, once he realized that the system wasn't working, he decided to wait because he knew that the processing time for a benefits claim can be pretty long, at times even two month, before receiving benefits. He thought to himself that perhaps the letter he received from the CRA meant that his file had not yet been finalized (Exhibits GD3-18 to GD3-20). He also stated that he had received another telephone message, after having received the letter dated August 29, 2013, to notify him that his hours were insurable;

- g) He stated that he later went to an Employment Insurance (Commission) office in October 2014, to find out what was going on. He also stated that it was when he contacted the Commission via telephone that he learned that he had not completed his reports in the prescribed time. He stated that the people with whom he then spoke informed him that there was nothing they could do because the deadline had passed. He stated that he explained that he had attempted to complete his reports each week, but that one of the agents with whom he spoke had told him that he had to make inquiries before the deadline, which he informed him was a three-week period. He stated that he did not understand what had happened and that he should not be penalized because the Commission had lagged in processing his claim (Exhibits GD3-24 to GD3-26);
- h) He also stated that he had received his letter confirming that his Employment Insurance claim was accepted on October 14, 2014. This letter contained his access code for completing his reports (Exhibit GD5-4);
- i) He stated that he contacted a union representative (CSN) before filing his Request for Reconsideration with the Commission on October 20, 2014;
- j) The Appellant`s representative, Mr. Étienne Poitras, stated the Appellant did what any other reasonable person would have done in his case;
- k) He stated that the Commission doubted the Appellant`s statement that he had attempted to call the Commission throughout the month of September 2014 to complete his reports and that the Commission relied on the fact that there is no such record in the file;
- l) He stated that the Appellant was a regular Employment Insurance appellant as a result of his status as seasonal worker and that, over the 30 years that he has been applying for benefits, he has never had a similar experience. He emphasised that the Commission had never taken this point into account;
- m) He stated that, aside from the Commission`s letter dated August 18, 2014 (Exhibit GD3-17), the file does not show that there was any other communication from the Commission`s part notifying the Appellant to call a specific number or by providing him with an access code that would allow him to complete his reports, despite the fact that he could have called using

previous documents he had from before. He stated that, in this context, the letter from Service Canada dated October 14, 2014, that provided the Appellant with his access code was a particularly relevant document in this case since it is an input document for a claim for benefits (Exhibit GD5-4);

- n) He stated that the Appellant was under the impression that his file was under review, that he may have had doubts given that he had not yet received his Employment Insurance benefits statement, and that this was his first claim that involved a process with the CRA regarding his employment's insurability. He suggested that the letter sent by the Commission on August 18, 2014, and the one sent by the CRA on August 29, 2014, may have caused some confusion. He stated that this situation may have resulted in the Appellant not understanding the connection between the letter on August 18, 2014, and the one on August 29, 2014 (Exhibits GD3-17 to GD3-19);
- o) He stated that the fact that the Commission did not send the Appellant a letter following the one sent by the CRA on August 29, 2014, shows that the Commission did not fulfill its duty as it should have towards the Appellant after he had been notified that his employment was insurable within the meaning of the Act (Exhibits GD3-17 to GD3-19);
- p) He stated that, in this case, there needs to be an assessment of what, within the meaning of the Act, constitutes a reasonable person, which he defined as [translation] "someone who doesn't stick their head in the sand," but who is not necessarily a legal expert. He stated that the Tribunal could not doubt the truth of the Appellant's testimony or the attempts he made to complete his reports, and that any reasonable person would have done the same, even if these efforts had not been the right ones;
- q) He referred to CUB 64942 to show that the Appellant did what a reasonable person would do within the meaning of the Act. He pointed out that there were similarities between that decision and the Appellant's case because there is nothing in the file that shows that the Appellant had received his access code before he began completing his reports. He stated that a two-month period was reasonable considering the reality of Employment Insurance delays and based on the Appellant's experience with Employment Insurance, namely that benefits are not paid before the end of the second month following the submission of a

claim. He stated that the Appellant was not being [translation] “paranoid”, that he did not doubt the system, and that he continued to make phone calls every two weeks. He stated that a reasonable person will wait for a while before contacting the Commission to report a problem, especially if they are under the impression that their file is under reviewed;

- r) He also referred to decision CUB 76726 to show that the Commission had a certain responsibility in providing information to claimants and that it had not fulfilled its role in this regard. He stated that the Appellant had cooperated with the CRA, that he stated that he had continued to complete his reports during the month of September 2014, and that he had called the Commission after a period of time in which someone would normally begin to receive benefits. He stated that these factors showed that the Appellant did what any reasonable person would do. He stated that the Commission’s position was invalid because it is based on the lack of credibility granted to the Appellant with regard to his actions in September 2014. He further noted that the two-month period was relatively short given the usual Employment Insurance delays;
- s) The Appellant’s representative, Mrs. Émilie Bouchard, outlined the following actions taken by the Appellant in the process of his file:
 - i. Filed a claim for benefits on August 13, 2014;
 - ii. Received a letter on August 18, 2014, notifying him that the CRA was in the process of assessing the insurability of the hours he worked for company 2954-5134 Québec Inc.;
 - iii. Received another letter from the CRA on August 29, 2014, confirming that his hours were insurable;
 - iv. Made weekly telephone calls to Service Canada starting in early September 2014 to learn the status of his file and in which he received a recorded message informing him that his file was under review;
 - v. Made a telephone call to information services on October 14, 2014, in which, after a one-hour wait, an agent informed him that he had not completed his reports in the

prescribed time. After that, the Appellant was transferred to another agent, whom he then told that he had never received his access code that would allow him to complete his reports (Exhibits GD5-1 and GD5-2);

- t) The representative stated that the Appellant did not receive his access code confirmation within the time-limit. She stated that a letter was sent to the Appellant on October 14, 2014, in which he was informed that he had failed to act within the prescribed time. She noted that the Appellant had been thorough in his file, that he made inquiries every week, and that he sought information from information services. She stated that the Appellant should not be penalized for Service Canada's oversight. She stated that the Appellant was not able to complete his reports because he had not been sent the access code as required. The representative stated that non-receipt of the access code constitutes a cause that has already been brought before the Tribunal in previous cases and that had been considered valid. She stated that these were reasonable grounds for the Tribunal to allow the appeal (Exhibits GD5-1 and GD5-2);

[30] The Respondent (Commission) submitted the following:

- a) Subsection 50(4) of the Act states that an Employment Insurance benefits claim for a week shall be made within the time prescribed in subsection 26(1) of the Regulations. Subsection 10(5) of the Act states that a claim made after the prescribed time shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made. Subsection 50(1) of the Act states that a claimant who fails to fulfil or comply with a condition or requirement is not entitled to receive benefits for as long as the condition or requirement is not fulfilled or complied with (Exhibit GD4-4);
- b) The Respondent stated that the Appellant did not show that he had good cause, within the meaning of the Act, to justify his delay. The Commission underscored the fact that over ten (10) weeks had passed before the Appellant attended to his file or attempted to contact the Commission (Exhibit GD4-4) ;

- c) It stated that section 26 of the Regulations stipulates that a claimant has a period of three (3) weeks following his reporting period that they must complete to do this and that after this time frame, the claimant must show that there was an actual obstacle preventing him from completing his reports on time, which the Appellant has failed to do (Exhibit GD4-4);
- d) It stated that it did not commit any error in the Appellant's file, contrary to what is stated in decision CUB 64942, which was submitted by the Appellant's representative during the hearing (Exhibit GD15-1);
- e) It also stated that, contrary to the situation described in decision CUB 76726, another document submitted by the Appellant's representative during the hearing, this was not the Appellant's first claim for benefits, given that he has been a regular Employment Insurance claimant every year since 1993 and that he is well-acquainted with the basic workings of Employment Insurance in the areas of filing a claim and claimant reports (Exhibit GD15-1);
- f) It stated that the Appellant did not receive any information prohibiting him from completing his reports or suggesting that his claim for benefits had been denied. The Commission stated that, on the contrary, the letter he received on August 18, 2014 (Exhibit GD3-17), clearly notified him that his file had not yet been finalized, that he was to continue completing his reports, and that if he failed to do so, he could lose his benefits (Exhibit GD15-1);
- g) It found that the Appellant did not do what any reasonable person would have in a similar situation; rather, he neglected to do what was necessary to deal with the issue, especially given that the letter of August 18, 2014, stated that he was to continue completing his claimant reports and that he confirmed having received this letter (Exhibits GD3-28, GD4-4, and GD4-5).

ANALYSIS

[31] Subsection 10(5) of the Act states that a claimant must show "good cause" to justify a delay when a claim for benefits, other than an initial claim for benefits, is made after the time prescribed for making the claim in order for it to be regarded as having been made on an earlier day.

[32] To prove that they had good cause during the entire delay period, a claimant must show that they did what a reasonable and prudent person would have done in similar circumstances to satisfy themselves as to their rights and obligations under the Act (*Persiiantsev*, 2010 FCA 101, *Kokavec*, 2008 FCA 307, *Paquette*, 2006 FCA 309).

[33] In *Albrecht* (A-172-85), the Court stated the following:

In my view, when a claimant has failed to file his claim in a timely way and his ignorance of the law is ultimately the reason for his failure, he ought to be able to satisfy the requirement of having 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 obligations under the Act. This means that each case must be judged on its own facts and to this extent no clear and easily applicable principle exists; a partially subjective appreciation of the circumstances is involved which excludes the possibility of any exclusively objective test. I think, however, that this is what Parliament had in mind and, in my opinion, this is what justice requires.

[34] In *Larouche* (A-644-93), The Court stated the following:

The precedents of this Court are clear: good faith and ignorance of the law do not in themselves excuse a failure to comply with a legislative requirement; an insured person must still show that she acted as a reasonable person to protect her rights and obligations.

[35] The Court also reiterated the principle in which the Commission has full discretion to modify administrative requirements under section 50 of the Act (*Paxton*, 2002 FCA 360).

[36] In this case, the Tribunal finds that the reasons cited by the Appellant for failing to complete his Employment Insurance benefits reports within the prescribed timeframe do not constitute "good cause" to justify such a delay, within the meaning of the Act (*Albrecht*, A-172-85, *Persiiantsev*, 2010 FCA 101, *Kokavec*, 2008 FCA 307, *Paquette*, 2006 FCA 309).

[37] The Tribunal finds the Appellant's statements regarding the letter he received from the Commission on August 18, 2014, to be contradictory. After having initially stated that he did not receive this letter, the Appellant later confirmed having received this document (Exhibits GD3-17 to GD3-24). This letter instructs the Appellant in very clear terms to continue completing his reports, even if his file was under review on the issue of the insurability of his employment at Motel et Condo Chez Charley. This document also instructed the Appellant to

contact a Service Canada Centre, or call them using the reference telephone number provided, if he wished to receive additional information regarding his claim for benefits and the requirements that must be met in that regard (e.g. using his access code) (Exhibits GD3-17 and GD3-24).

[38] In its additional submission, the Commission brought forth the following details:

[TRANSLATION]

[...] He [the Appellant] did not receive any information prohibiting him from completing his reports or implying that his claim for benefits had been denied. On the contrary, the letter sent on August 18, 2014, and shown in page GD3-17, clearly indicates to the claimant that his file had not yet been finalized and that he must continue completing his reports. He was also informed that failing to do this may result in the loss of benefits (Exhibit GD15-1).

[39] At the hearing, the Appellant added that, after having received the letter from the CRA on August 29, 2014, he received a telephone call confirming that his employment with employer Motel et Condo Chez Charley was insurable employment within the meaning of the Act (Exhibits GD3-18 and GD3-19).

[40] If the Appellant wished to obtain additional information regarding the status of his claim for benefits or, as suggested by the Appellant's representative, if there was confusion on his part concerning the processing of his claim, he could thus have asked questions pertaining to these issues or could have been referred to someone in a position to answer his questions. The Appellant had at that point the opportunity to have any doubts he may have had regarding the status of his claim for benefits dispelled.

[41] When he submitted his antedate application on October 14, 2014, the Appellant stated that he had been calling every week and that he always received an automated message informing him that his file was still under review and that he could not complete his reports.

[42] The Tribunal considers that, once he found that he was unable to complete his reports and he received a message informing him that his file was under review, the Appellant should have taken the initiative to promptly contact the Commission in order to report this issue, especially considering that this was a recurring problem.

[43] The Appellant was late in taking initiative with the Commission; he waited several weeks after he had discovered there was a problem with completing his reports. The Appellant had enough information (e.g. reference telephone number) to take the steps necessary to find a solution to the issue he encountered.

[44] For the Commission's part, it explained that when a claimant fills out their reports and they are unable to finish completing them, there is a signal (record) that appears in the system and a telephone number is then provided to the claimant so that they can contact a call centre (Exhibit GD3-25).

[45] The Commission further stated that the Appellant's claim for benefits was calculated on September 9, 2014. This means that the Appellant could not have received a message stating that his claim was still under review beyond this date (Exhibit GD3-27).

[46] The Appellant's representative, for his part, stated that, with the exception of the letter he received on August 18, 2014 (Exhibit GD3-17), the file does not show that the Commission had contacted the Appellant to instruct him to call a specific number or to provide him with a code number (access code). The representative stated that, in this context, the letter from Service Canada dated October 14, 2014, in which the Appellant is provided with his access code, is particularly important since it represents an input document for a claim for benefits (Exhibit GD5- 4).

[47] The Tribunal does not accept the representative's submission on this issue since the Appellant has stated that he had his access code when he attempted to complete his reports. In a statement made on November 18, 2014, the Appellant stated that he called the number 1-800-431-5595, that he provided his Social Insurance Number, and that he used his four-digit code (access code), but that he was unable to complete his reports (Exhibit GD3-25). The Appellant had also stated that he understood how the system worked.

[48] According to case law, having "good cause" simply means doing what a "reasonable person" would do to satisfy themselves as to their rights and obligations under the Act (*Kokavec*, 2008 FCA 307, *Paquette*, 2006 FCA 309).

[49] The Tribunal is of the opinion that a reasonable person would have promptly contacted the Commission to enquire about their rights and obligations regarding their claim for benefits. The Appellant had all the means at his disposal to do this.

[50] Furthermore, given his experience with Employment Insurance, the Appellant should have been diligent in contacting the Commission before October 14, 2014, regarding the issue he encountered. There is nothing to show that he was prevented from doing so.

[51] The Commission had moreover stated that, contrary to the situation found in decision CUB 76726, the Appellant had an Employment Insurance history going back to 1993 and that he had a good understanding of how applying for benefits and claimant reports worked (Exhibit GD15-1).

[52] In this case, given the Appellant's experience with the Employment Insurance process, the Tribunal finds that his negligence in following up on his claim for benefits does not reflect the actions of a "reasonable person" in a similar situation.

[53] The onus is on the Appellant to take the steps necessary to promptly contact the Commission to enquire about the status of his claim for benefits and to find a solution to the issue he encountered. The reasons the Appellant presented for failing to do this within the prescribed time do not exempt him from the requirements of the Act.

[54] In summary, the reasons brought forth by the Appellant cannot serve as "good cause" to grant his antedate request.

[55] The Tribunal finds that the disentitlement to benefits imposed on the Appellant for the period of August 3 to October 4, 2014, as was established by the Commission, was warranted under the circumstances.

[56] The appeal in this case has no merit.

CONCLUSION

[57] The appeal is dismissed.

Normand Morin
Member, General Division – Employment Insurance Section