

[TRANSLATION]

Citation: *R. M. v. Canada Employment Insurance Commission*, 2015 SSTGDEI 178

Date: October 19, 2015

File number: GE-15-1905

GENERAL DIVISION – Employment Insurance Section

Between:

R. M.

Appellant

and

Canada Employment Insurance Commission

Respondent

Decision by: Alcide Boudreault, Member, General Division – Employment Insurance Section

Hearing by teleconference on October 13, 2015

REASONS AND DECISION

PERSONS IN ATTENDANCE

The Appellant, R. M., was present at the hearing on October 13, 2015. The Canada Employment Insurance Commission (the “Commission”) was not present.

DECISION

[1] The Social Security Tribunal (the “Tribunal”) concludes that the Appellant did not complete his report cards within the time limits set out in sections 10 and 50 of the *Employment Insurance Act* (the “Act”) and section 26 of the *Employment Insurance Regulations* (the “Regulations”). The appeal is dismissed.

INTRODUCTION

[2] This appeal was heard by the teleconference hearing method for the following reasons:

- a) The information in the file, including the need for additional information.
- b) This method of proceeding best meets the needs of the parties for accommodation.
- c) This method of proceeding respects the requirement under the *Social Security Tribunal Regulations* to proceed as informally and quickly as circumstances, fairness and natural justice permit.

[3] On February 4, 2015, the Appellant made a renewal claim for employment insurance benefits to take effect on January 18, 2015 (GD3-3 to GD3-11).

[4] On April 23, 2015, the Commission informed the Appellant that he was not entitled to employment insurance benefits as of January 18, 2015 because he had not made his claim within the established time limits and he had not demonstrated good cause for that delay (GD3-17).

[5] On May 1, 2015, the Appellant filed a request for reconsideration of the Commission’s decision (GD3-18 to GD3-19).

[6] On May 27, 2015, the Commission informed the Appellant that it had not changed its decision concerning the issue (GD3-22).

[7] On June 12, 2015, the Appellant appealed to the Tribunal.

ISSUE

[8] The Tribunal must decide on the refusal of a request to antedate because the Appellant did not complete his report cards within the time limits prescribed in sections 10 and 50 of the Act and section 26 of the Regulations.

THE LAW

[9] Subsection 10(5) of the Act:

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.

[10] Subsection 50(1) of the Act:

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.

[11] Subsection 50(4) of the Act:

A claim for benefits for a week of unemployment in a benefit period shall be made within the prescribed time.

[12] Section 26 of the Regulations:

(1) Subject to subsection (2), a claim for benefits for a week of unemployment in a benefit period shall be made by a claimant within three weeks after the week for which benefits are claimed.

(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

[13] The Appellant made a renewal claim for employment insurance benefits on February 4, 2015 which took effect on January 18, 2015 (GD3-3 to 11).

[14] The record of employment provided by the Employer showed that the Appellant stopped work on January 14, 2015 because of sickness (GD3-12).

[15] The Appellant provided two medical certificates, one dated January 14, 2015 that mentions that he has stopped work until January 22, 2015 because of sickness and a second one from January 22, 2015 to February 23, 2015 (GD3-13 to 14).

[16] The Appellant contacted the Commission on April 23, 2015 and asked to antedate his claim to January 18, 2015. He indicated that he thought he would receive cards (GD3-15).

[17] The Appellant received a letter from the Commission but he set it aside and did not complete his reports.

[18] His employer paid him during his period of sickness and when the amounts were deducted from his pay because the employer had to be repaid, he realized that he should contact the Commission to obtain sickness benefits (GD3-16).

PARTIES' ARGUMENTS

[19] The Appellant presented the following arguments:

- a) The Commission's decision was harsh.
- b) He lost money and was entitled to his benefits.
- c) The legislation is complicated for a simple claimant.
- d) He received a letter but he did not take action.

[20] The Respondent presented the following arguments:

- a) When a claim for benefits other than an initial claim is made four weeks or more after the week for which benefits are claimed as provided in subsection 26 of the Regulations, the claim is deemed to have been made on an earlier day if the claimant can show that there was "good cause" throughout the period of the delay.

- b) The claimant must be able to show that he acted like any reasonable person would have acted in his situation to meet his obligations and exercise his rights under the Act.
- c) Subsection 50(4) of the Act stipulates that a claim for employment insurance benefits for a week must be made within the time prescribed under subsection 26(1) of the Regulations.
- d) Subsection 10(5) of the Act stipulates that a claim made after the time prescribed must 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.
- e) Subsection 50(1) of the Act stipulates that a claimant who fails to fulfil or comply with a condition or requirement is not entitled to receive employment insurance benefits for as long as the condition or requirement is not fulfilled or complied with.
- f) The claimant's renewal claim for benefits took effect on January 18, 2015 but the claimant did not complete the report cards within the time prescribed.
- g) In its view, the Appellant did not show that there were one or more good causes to explain his delay in presenting his reports and he had not acted like any "reasonable person" would have acted in his situation to verify his rights and obligations under the Act.

ANALYSIS

[21] Subsection 10(5) of the Act establishes that if an appellant shows that there was good cause for his delay in making a claim for benefits, other than an initial claim, after the time prescribed, the claim must be considered as having been made on an earlier day.

[22] Subsection 50(1) of the Act states that any appellant 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.

[23] The Appellant had received an initial letter with his access code. He decided to disregard the information and set the document aside. He thought he would receive his report cards later. Bear in mind that this was not his first claim.

[24] The Appellant explained at the hearing that he was taking medication and that it occasionally impaired his judgement. The Tribunal does not doubt the Appellant's good faith but he provided no evidence to confirm his medical condition. He did enter medical certificates into evidence, but those documents do not explain the Appellant's medical condition. On the two medical certificates, we read: "Sick leave . . ." with no further details.

[25] The Tribunal considers that the Appellant's medical condition was not exceptional. The Appellant did not make a reasonable effort to reactivate his claim. He did not seek help from the people around him. He did not act as a reasonable person would have acted in similar circumstances.

"Unless there are exceptional circumstances, a reasonable person is expected to take reasonably prompt steps to understand their entitlement to benefits and obligations under the Employment Insurance Act." (Kaler, 2011 FCA 266; Innes, 2010 FCA 341; Somwaru, 2010 FCA 336; Trinh, 2010 FCA 335; Mehdinasab, 2009 FCA 282; Caron, A 395 85; Pirotte, A 108 76).

[26] The Appellant is required to show that he had good cause for not making his claim earlier. There is abundant case law in this regard that having good cause means simply acting as a reasonable person would have acted to verify his rights and obligations under the Act. By disregarding the importance of the documents sent by the Commission, the Appellant did not act as a reasonable person would have acted in the same situation.

The Tribunal relies on the decision “. . . *an applicant for antedating a claim for benefits must demonstrate ‘good cause’ by showing that ‘he did what a reasonable and prudent person would have done in the same circumstances.’*” **Caron (1986), 69 N.R. 132 (F.C.A.)**

[27] The Tribunal must determine if the steps taken by the Appellant to resolve his situation show whether there was good cause for the delay. Often the question will resolve itself into a matter of credibility.

[28] The Appellant gave two reasons to explain his delay in submitting his benefit report cards. First, he stated that he believed that he would receive the cards in another mailing from the Commission and second, he stated that his state of health resulted in his forgetting to make his claim for benefits.

[29] The Appellant did not show that he had good cause to delay making his claim for benefits and that he acted as a reasonable person would have acted in the same situation.

CONCLUSION

[30] The appeal is dismissed.

DATE OF REASONS: October 19, 2015

Alcide Boudreault
Member,
General Division