

Citation: *R. V. v. Canada Employment Insurance Commission*, 2015 SSTGDEI 198

Date: November 19, 2015

File number: GE-15-1587

GENERAL DIVISION - Employment Insurance Section

Between:

R. V.

Appellant

and

Canada Employment Insurance Commission

Respondent

Decision by: Katherine Wallocha, Member, General Division - Employment Insurance Section

Heard by Teleconference on November 10, 2015

REASONS AND DECISION

INTRODUCTION

[1] The Appellant applied for regular Employment Insurance benefits on March 2, 2015. The Respondent denied the application at the initial level and on April 27, 2015 denied the application at the reconsideration level. The Appellant appealed that decision to the General Division of the Tribunal on June 19, 2015. However, since September 9, 2015 the Tribunal has been unable to locate the Appellant and provide a notice of hearing.

THE LAW

[2] Paragraph 3(1)(a) of the *Social Security Tribunal Regulations* (SST Regulations) states “[t]he Tribunal must conduct proceedings as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.”

[3] Subsection 3(2) of the SST Regulations provides that “[i]f a question of procedure that is not dealt with by these Regulations arises in a proceeding, the Tribunal must proceed by way of analogy to these Regulations.”

[4] Section 6 of the SST Regulations says that “[a] party must file with the Tribunal a notice of any change in their contact information without delay.”

[5] Section 12 of the SST Regulations specifies that “[i]f a party fails to appear at a hearing, the Tribunal may proceed in the party’s absence if the Tribunal is satisfied that the party received notice of the hearing” and further provides that “[t]he Tribunal must proceed in a party’s absence if the Tribunal previously granted an adjournment or postponement at the request of the party and the Tribunal is satisfied that the party received notice of the hearing.”

[6] Subsection 31(1) of the SST Regulations states “[t]he Employment Insurance Section must, at the time it sends copies of the documents filed by the Commission to the other parties, send all the parties

(a) a notice of hearing; or

(b) a notice of summary dismissal referred to in section 22.”

Subsection (2) of the SST Regulations states that “[i]f the Employment Insurance Section sends a notice of summary dismissal but does not summarily dismiss the appeal, it must send a notice of hearing to the parties without delay.”

ISSUE

[7] The issue under appeal is whether the Appellant has abandoned the appeal.

EVIDENCE

[8] The Appellant’s Notice of Appeal, as well as other correspondence sent by the Tribunal, notifies the parties of their obligation under section 6 of the SST Regulations to advise the Tribunal of any changes to their contact information and that the failure to do so may have a detrimental impact on the appeal.

[9] On May 13, 2015 a letter was sent to the Appellant informing him that his Notice of Appeal was incomplete because it was missing mandatory information. This letter was mailed to PO Box X X X, Alberta XXX XXX, the address provided by the Appellant on his Notice of Appeal.

[10] On June 19, 2015 the Appellant submitted a letter dated June 1, 2015 and provided the information missing to complete his Notice of Appeal.

[11] On June 22, 2015 the Tribunal sent the Appellant a letter informing him that his Notice of Appeal was complete however it appeared to have been filed late.

[12] On August 13, 2015 a letter informing the Appellant a determination had been made that his appeal was filed on time was sent to PO Box X X X, Alberta XXX XXX.

[13] On August 18, 2015 a copy of the Notice to Potential Added Party was sent to the Appellant.

[14] On September 9, 2015, the Notice of Hearing was sent to the Appellant by Priority Post to the following address: PO Box X X X, Alberta XXX XXX. On September 21, 2015, the Notice of Hearing was returned to the Tribunal and was marked “refused”.

[15] On September 22, 2015, the Tribunal left a voice message at the number provided by the Appellant in his application for EI benefits and his Notice of Appeal. On September 23, 2015, a message was left at a number that the Appellant had provided to the Commission where the Appellant stated messages could be left.

[16] On September 25, 2015, the August 13, 2015 letter informing the Appellant that his appeal was filed on time was returned to the Tribunal.

[17] On September 28, 2015, the Notice of Hearing was sent to the Appellant by regular mail to the following address: PO Box X X X, Alberta XXX XXX.

[18] On September 30, 2015, the Potential Added Party letter sent to the Appellant was returned to the Tribunal.

[19] On November 6, 2015 the Notice of Hearing sent by regular mail was also returned to the Tribunal and marked "Not at this address".

[20] The Tribunal tried to contact the Appellant by telephone on November 6, 2015. The Tribunal was unable to reach the Appellant as the number provided on the Notice of Appeal has now been re-assigned to a new client.

ANALYSIS

[21] The Appellant was notified, both in the Notice of Appeal and in subsequent correspondence that was successfully delivered by the Tribunal, of the obligation to notify the Tribunal of any changes to their contact information. The Appellant has failed to do so.

[22] Following internal procedures adopted by the Tribunal, multiple attempts have been made to deliver the Notice of Hearing to the Appellant and to contact the Appellant by telephone. However, the Tribunal has been unsuccessful in delivering the Notice of Hearing or locating the Appellant.

[23] The Tribunal is required to conduct proceedings as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.

[24] Given that the Appellant has failed to comply with the requirements of section 6 of the SST Regulations, the Tribunal finds that the Appellant has abandoned the appeal. The Tribunal proceeds in this manner under the authority under subsection 3(2) of the SST Regulations which allows the Tribunal to proceed by way of analogy in questions of procedure that are not dealt with in the SST Regulations.

CONCLUSION

[25] The Tribunal dismisses the appeal as abandoned.

K. Wallocha

Member, General Division - Employment Insurance Section