



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *T. T. v. Canada Employment Insurance Commission*, 2016 SSTGDEI 55

Tribunal File Number: GE-15-3900

BETWEEN:

T. T.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Eleni Palantzas

HEARD ON: April 13, 2016

DATE OF DECISION: April 19, 2016

REASONS AND DECISION

PERSONS IN ATTENDANCE

The Claimant, Ms. T. T., did not attend the scheduled hearing.

The Member confirmed that Canada Post delivered the Notice of Hearing and docket and that the Claimant signed and accepted the package on January 18, 2016. The Member noted that the Notice of Hearing was delivered to the same address she provided on all correspondence with the Commission and the Tribunal. No mail was returned to the Tribunal.

The Member, satisfied that the Appellant received the Notice of Hearing, proceeded in the Appellant's absence under the authority of section 12 of the Social Security Tribunal Regulations (SST Regulations).

The Tribunal attempted to contact the Claimant by telephone without success on April 15, 18, 19, 2016. The Claimant has not contacted the Tribunal since the scheduled hearing.

INTRODUCTION

[1] On September 11, 2015, the Claimant applied for compassionate care benefits.

[2] On September 23, 2015, the Commission advised the Claimant that compassionate care benefits could not be paid because she did not provide the required medical certificate. On October 1, 2015, the Claimant requested that the Commission reconsider its decision and provided the requested medical certificate.

[3] On October 23, 2015, the Commission reconsidered its decision and advised the Claimant that she was approved for compassionate care benefits from August 23, 2015. She was paid six weeks of benefits until October 3, 2015.

[4] On November 27, 2015, the Claimant appealed to the General Division of the Social Security Tribunal noting that she was not paid for October 5, 2015.

[5] The hearing was held by teleconference given (a) the fact that the appellant will be the only party in attendance (b) the information in the file, including the need for additional

information and (c) the form of hearing respects the requirement under the Social Security Tribunal Regulations to proceed as informally and quickly as circumstances, fairness and natural justice permit.

ISSUE

[6] The Member must decide whether the Claimant has received the maximum six weeks of compassionate care benefits pursuant to paragraph 12(3)(d) of the *Employment Insurance Act* (EI Act).

THE LAW

[7] Paragraph 12(3)(b) of the EI Act stipulates that, subject to subsection (7), the maximum number of weeks for which benefits may be paid in a benefit period because the claimant is providing care or support to one or more family members described in subsection 23.1(2), is six.

[8] Subsection 23.1(2) of the EI Act stipulates that notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant if a medical doctor has issued a certificate stating that

(a) a family member of the claimant has a serious medical condition with a significant risk of death within 26 weeks

(i) from the day the certificate is issued;

(ii) in the case of a claim that is made before the day the certificate is issued, from the day from which the medical doctor certifies the family member's medical condition; or

(iii) in the case of a claim that is regarded to have been made on an earlier day under subsection 10(4) or (5), from that earlier day; and

(b) the family member requires the care or support of one or more other family members.

[9] Subsection 23.1(4) of the EI Act stipulates that subject to section 12, benefits under this section are payable for each week of unemployment in the period

- (a) that begins with the first day of the week in which the following falls, namely,
 - (i) the day of issuance of the first certificate in respect of the family member that meets the requirements of subsection (2) and is filed with the Commission,
 - (ii) in the case of a claim that is made before the day the certificate is issued, the day from which the medical doctor certifies the family member's medical condition, or
 - (iii) in the case of a claim that is regarded to have been made on an earlier day under subsection 10(4) or (5), that earlier day; and
- (b) that ends on the last day of the week in which any of the following occurs, namely,
 - (i) all benefits payable under this section in respect of the family member are exhausted,
 - (ii) the family member dies, or
 - (iii) the expiration of 26 weeks following the first day of the week referred to in paragraph (a).

[10] Subsection 12 (1) of the SST Regulations stipulates that if 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.

[11] Subsection 12(2) of the SST Regulations stipulates that the 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.

EVIDENCE

[12] On September 11, 2015, the Claimant applied for 6 weeks of compassionate care benefits from August 23, 2015 indicating the required medical documentation is forthcoming (GD3-8).

[13] Initially, on September 23, 2015, the Commission advised the Claimant that compassionate care benefits could not be paid from August 23, 2015 because she did not submit a medical

certificate confirming that a family member is gravely ill, at risk of dying, and requires care or support (GD3-17).

[14] On October 1, 2015, the Claimant requested that the Commission reconsider its decision noting that she did not know that she had to submit a medical certificate since one was sent to the employer. She attached the required form (GD3-18 to GD3-22).

[15] On October 23, 2015, the Commission reconsidered its decision and advised the Claimant that she was approved for compassionate care benefits from August 23, 2015 (GD3-23).

[16] The Commission submitted a copy of its payment screen that indicated the Claimant was paid six weeks of benefits from August 23, 2015 until October 3, 2015 (GD3-26).

[17] The Claimant submitted her leave of absence request submitted to her employer from Tuesday, August 25, 2015 until Monday, October 5, 2015 which was approved (GD2-4). She also submitted copies of her bank statement indicating 3 deposits on October 27, 2015 for \$855.00, \$916.00 and \$916.00 (GD2-5).

SUBMISSIONS

[18] The Appellant submitted that she requested compassionate care benefits from August 25, 2015 to October 5, 2015 however; payment for October 5, 2015 is missing (GD2).

[19] The Respondent submitted that the Claimant had already received the maximum 6 weeks of compassionate care benefits from August 23rd, 2015 to October 3rd, 2015. The Act does not permit extensions and therefore, the Claimant is not eligible for any additional compassionate care benefits as of October 5th, 2015.

ANALYSIS

[20] According to paragraph 12(3)(b) of the EI Act, a maximum of six weeks of compassionate care benefits may be paid to a claimant who is providing care or support to one or more family members described in subsection 23.1(2) of the EI Act.

[21] According to subsection 23.1(2) of the EI Act, in order for a claimant to receive compassionate care benefits, the claimant must submit a medical certificate issued by a medical doctor that states (a) the family member of the claimant has a serious medical condition and a significant risk of death within 26 weeks and (b) the family member requires the care or support of one or more other family member.

[22] In this case, the Claimant submitted the required medical certificate pursuant to subsection 23.1(2) of the EI Act. The Commission then paid the Claimant the maximum six weeks of compassionate care benefits pursuant to paragraph 12(3)(b) of the EI Act . The benefit period was started from Sunday, August 23, 2015 pursuant to paragraph 23.1(4)(a)(i) until Saturday, October 3, 2015 pursuant to paragraph 23.1(4)(b)(i) of the EI Act (GD3-26). The Member agrees with the Commission that the EI Act does not allow for an extension to this six- week maximum. The Claimant therefore cannot be paid compassionate care benefits on October 5, 2015.

[23] According to the Claimant's leave of absence request from her employer, the Claimant requested to be off work from Tuesday, August 25, 2015 until Monday, October 5, 2015 (GD2-4) and so her last day at work was Monday, August 24, 2015 (GD3-9). The Claimant can confirm with the Commission whether this is why she received \$855.00 for the first two weeks as opposed to the \$916.00 paid for the next two, two-week periods (GD2-5 and GD3-26).

[24] The Member therefore finds that the Claimant was correctly paid compassionate care benefits for the maximum six week period from August 23, 2015 to October 3, 2015 pursuant to paragraph 12(3)(b) of the EI Act.

CONCLUSION

[25] The appeal is dismissed.

Eleni Palantzas

Member, General Division - Employment Insurance Section