



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. C. v. Canada Employment Insurance Commission*, 2016 SSTADEI 418

Tribunal File Number: AD-15-1170

BETWEEN:

**A. C.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Mark Borer

HEARD ON: August 16, 2016

DATE OF DECISION: August 16, 2016

## **DECISION**

[1] The appeal is dismissed as abandoned.

## **INTRODUCTION**

[2] Previously, a member of the General Division declined to exercise his discretion to grant an extension of time to file an appeal from a Commission reconsideration decision. In due course the Appellant appealed that decision to the Appeal Division and leave to appeal was granted.

[3] On August 16, 2016, a teleconference hearing was held.

## **ANALYSIS**

[4] The Appellant did not appear at the scheduled teleconference hearing. I note that the record shows that the notice of hearing, sent by courier, was received by the Appellant. I also note that since leave to appeal was granted the Tribunal has not received any communications from the Appellant.

[5] At the hearing, I expressed my intention to dismiss the appeal as abandoned and asked the Commission if they had any submissions on this point. They replied that in the circumstances of this case and given the fact that the Appellant had been properly notified of the hearing, they had no objections to me doing so. They also submitted that in their view the Appellant was not entitled to benefits.

[6] Because of the foregoing, I find that this appeal should be dismissed as abandoned.

[7] While I believe that I am permitted to dismiss appeals as abandoned based upon the general authority of administrative tribunal members to regulate the proceedings before them, I also note that dismissing an appeal as abandoned was specifically approved by the Federal Court of Appeal in *Abdul v. Canada (Attorney General)*, 2001 FCA 271.

[8] In that case, an umpire (a member of the predecessor tribunal to the Appeal Division for employment insurance appeals), having found that notice of the hearing had been properly given to the appellant and neither the appellant nor anyone on his behalf appeared at the scheduled hearing, dismissed the appeal (in CUB 46812) as abandoned.

[9] Upon realizing that his case had been dismissed, the appellant in that matter asked that the umpire rescind or amend his decision under the authority of s. 120 of the *Employment Insurance Act* (now, with identical wording, s. 66 of the *Department of Employment and Social Development Act*). In support of this application, the appellant filed a doctor's note which indicated that he had been sick on the day in question.

[10] Reviewing the medical note, the umpire determined (in CUB 46812A) that it did not constitute "new facts", as contemplated by the *Act*, because it did not explain why the appellant was unable to attend the hearing or, in the alternative, was unable to produce the medical note at or before the hearing. He therefore dismissed the application.

[11] In due course, the appellant appealed further to the Federal Court of Appeal. In their decision, the Court noted that the umpire had dismissed the appellant's appeal as abandoned. The court also noted that the appellant's application under s. 120 had been dismissed for failing to show any "new facts".

[12] After reviewing the medical note provided by the appellant, the court found that the umpire had been correct in determining that the note did not explain why the appellant was not present, and as such, was not new evidence. The court then stated that:

[W]e cannot say that [the umpire] was wrong in the exercise of his discretion, nor that he offended any principles of natural justice or procedural fairness. His decision, based on the record and the submissions of the parties, is not in error.

[13] The case before me is identical to the one before the umpire in *Abdul*. Although properly notified, neither the Appellant nor anyone on their behalf appeared at the hearing held before me. I therefore find that the Appellant has abandoned their appeal.

## **CONCLUSION**

[14] For the above reasons, the appeal is dismissed as abandoned.

*Mark Borer*  
Member, Appeal Division