



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *S. H. v. Canada Employment Insurance Commission*, 2016 SSTADEI 492

Tribunal File Number: AD-15-264

BETWEEN:

**S. H.**

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: September 15, 2016

DATE OF DECISION: September 29, 2016

## **DECISION**

[1] The appeal is dismissed.

## **INTRODUCTION**

[2] Previously, a General Division member dismissed the Appellant's appeal.

[3] In due course, the Appellant filed an application for leave to appeal with the Appeal Division and leave to appeal was granted.

[4] On September 15, 2016, a teleconference hearing was held. The Appellant and the Commission each attended and made submissions.

## **THE LAW**

[5] According to subsection 58(1) of the *Department of Employment and Social Development Act* (the DESPA), the only grounds of appeal are that:

- (a) the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) the General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- (c) the General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

## **ANALYSIS**

[6] This appeal concerns whether or not the Appellant had good cause within the meaning of the *Employment Insurance Act* (the Act) to have her benefit reports antedated (backdated).

[7] In her submissions the Appellant submitted that she did not file her reports on time because she had many things going on in her life. She is a single mother, who had to deal

with a serious family situation as well as the illness and death of her aunt. She argues that this constitutes good cause, and asks that I allow her appeal.

[8] The Commission submits that the General Division member correctly applied the law to the facts at hand, including the citing of relevant case law. For this reason they support the member's conclusion that the Appellant should not have her benefit reports antedated.

[9] The General Division member, in his decision, correctly stated the law regarding the antedating of benefit reports and also correctly noted *Canada (Attorney General) v. Kokavec*, 2008 FCA 307. The member then made factual findings to the effect that the Appellant failed to contact the Commission to determine the timelines for filing reports and that the Appellant was aware of the need to file her reports in a timely manner. After reviewing the reasons given for the delay by the Appellant, the member found that she had not shown good cause for the delay because she failed to do what a "reasonable person in a similar situation would have done".

[10] Having considered the material before me, I can find no reviewable error in the General Division decision.

[11] I have found no evidence to support the grounds of appeal invoked or any other possible ground of appeal. In my view, as evidenced by the decision and record, the member conducted a proper hearing, weighed the evidence, made findings of fact supported by that evidence, established the correct law, properly applied that law to the facts, and came to a conclusion that was intelligible and understandable.

[12] There is no reason for the Appeal Division to intervene.

## **CONCLUSION**

[13] For the above reasons, the appeal is dismissed

*Mark Borer*

Member, Appeal Division