



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. P. v Canada Employment Insurance Commission*, 2019 SST 236

Tribunal File Number: GE-19-595

BETWEEN:

D. P.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Angela Ryan Bourgeois

DATE OF DECISION: January 31, 2019

REASONS AND DECISION

[1] The Respondent (Commission) issued a decision letter dated June 13, 2018, on various matters relating to the Appellant's (Claimant) earnings during his benefit period that started on December 12, 2017. The Claimant requested a reconsideration of that decision on December 11, 2018.

[2] The Commission determined that the Claimant had not made the request for reconsideration within the prescribed 30-day period from the date the initial decision was communicated to him, and refused to allow additional time to make the request.

[3] The Claimant appealed to the Tribunal.

[4] The issue before me is whether the Claimant made a request for reconsideration within 30 days from the date the Commission's initial decision was communicated to him.¹ The Commission may allow a longer period if they are satisfied that certain conditions have been met².

[5] Upon reviewing the Claimant's appeal, the Commission accepted the Claimant's explanation that he did not receive the initial decision letter. The Commission filed submissions in which they conceded the appeal. I agree with the Commission that the appeal should be allowed because I find that the Claimant made his request for reconsideration within 30 days from when the initial decision was communicated to him.

[6] I accept the Claimant's consistent statements that he did not receive the initial decision letter and was not aware of the decision until he made another initial claim for benefits. I accept the Claimant's statement in his notice of appeal that he did not received a decision by letter, but was advised of the decision by telephone on December 10, 2018. As such, I find that the initial decision was communicated to him on December 10, 2018. Because he filed his request for reconsideration on December 11, 2018, he made his request within the prescribed 30-day period.

¹ Paragraph 112(1)(a) of the Act

² Paragraph 112(1)(b) and subsection 112(3) of the Act and section 1 of the *Reconsideration Request Regulations*

[7] Finally, I rely on paragraph 3(1)(b) of the *Social Security Tribunal Regulations* (Regulations) to render this decision on the record. I find that the Commission's failure to use section 18 of the Regulations to enter an agreement with the Claimant is a special circumstance which justifies varying the requirement to hold a hearing and ensures the appeal is dealt with as informally and quickly as the circumstances, fairness and natural justice permit.

[8] The appeal is allowed.

Angela Ryan Bourgeois
Member, General Division – Employment Insurance