



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *RS v Canada Employment Insurance Commission*, 2019 SST 1741

Tribunal File Number: GE-19-400

BETWEEN:

**R. S.**

Appellant/Claimant

and

**Canada Employment Insurance Commission**

Respondent/Commission

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Candace R. Salmon

HEARD ON: April 15, 2019

DATE OF DECISION: May 6, 2019

## **DECISION**

[1] The appeal is dismissed on all issues. The Appellant was paid employment insurance special benefits for sickness while also in receipt of supplementary monies from her employer. These supplementary monies are earnings which must be allocated.

## **OVERVIEW**

[2] The Appellant, who I will refer to as the Claimant, was injured in a car accident and made a claim for employment insurance (EI) special benefits for sickness. The Canada Employment Insurance Commission, which I will refer to as the Commission, established the claim and paid 15 weeks of sickness benefits to the Claimant. The Commission later determined the Claimant was also in receipt of supplemental benefits from her employer at the same time she received EI benefits for sickness, and failed to claim the supplemental benefits on her biweekly claim report. The Commission allocated the Claimant's earnings to include the supplemental benefit payments, and advised that she owed money back to the Commission because she was overpaid benefits. The Claimant requested reconsideration, stating she did not receive money from her employer. The Commission upheld its decision. The Claimant appeals the decision to the Social Security Tribunal (Tribunal), arguing she did not receive payments from her employer.

## **PRELIMINARY MATTERS**

[3] This is the second hearing of this matter at the General Division of the Tribunal. The matter was sent back by the Tribunal's Appeal Division because the previous General Division decision did not show that the Member considered the Claimant's submissions.

[4] When the Claimant filed an Application to the Appeal Division for leave to appeal, she stated her "Charter of rights" were violated by the General Division decision because the officer failed to "make proper look evidence." While I am unclear whether the Claimant meant the

Tribunal Member failed to consider all the evidence or investigate for further evidence, it is clear that she invoked a constitutional argument.<sup>1</sup>

[5] I held a pre-hearing conference on March 13, 2019, to confirm whether the Claimant intended to make a constitutional argument at the hearing, as the process is different for those cases. The Claimant and her representative, as well as counsel for the Commission, attended the conference. I explained the process for constitutional cases to the Claimant and her representative. The Claimant stated that she did not intend to pursue a constitutional argument and wanted to proceed with a regular hearing. I determined, based on the Claimant's submissions, that this was not a constitutional case and scheduled it for a regular hearing.

[6] At the pre-hearing conference, the Commission requested two months to perform further investigation on the file because it had not received a response from the employer as to the reason it paid the Claimant money in the EI benefit period. I granted a period of one month. The Commission provided a submission on April 12, 2019, though it was not processed by the Tribunal until April 15, 2019, and I was not provided a copy until April 16, 2019, after the hearing. The Tribunal sent the document to the Claimant, with my direction that she had until April 26, 2019, to reply. The Claimant did not reply.

[7] On April 15, 2019, after the hearing, I requested the Commission investigate an issue. The Claimant's representative argued at the hearing that there was no evidence the Claimant ever received EI benefits between December 29, 2013, and April 26, 2014. The Commission submitted the Claimant established a claim for sickness benefits and was paid for 15 weeks. The representative stated that the Claimant asked for a breakdown of the benefit payments but received no response from the Commission and thus submitted that there was no evidence she was paid EI benefits so she should not have to pay anything back. I asked the Commission to provide a breakdown of the payments made to the Claimant between December 29, 2013, and April 26, 2014. I gave a deadline of April 26, 2019, to respond. The Commission provided a supplementary representations in response to my request on April 18, 2019.

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<sup>1</sup> *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, c. 11

[8] As such, there are two post-hearing documents at issue—the first was provided in response to the pre-hearing conference and was filed with the Tribunal prior to the hearing, but was not processed and provided to the other party, or myself, until after the hearing. The second document is the result of my request for an investigation. I find both post-hearing documents were provided within their respective deadlines.

[9] There is no definitive test for a Tribunal in terms of accepting post-hearing submissions. Generally speaking, filing post-hearing documents is discouraged, in part because matters proceed more efficiently, fairly, and expeditiously when established deadlines are respected.<sup>2</sup> I am conscious that my duty to respect the rules of procedural fairness does not end with the hearing, and continues until I finalize the decision. To my knowledge, the courts have not provided a definitive answer to this question in the context of this Tribunal, but have addressed it in other contexts. In one case, the Federal Court dealt with a post-hearing submission situation at trial and accepted that there are three factors to consider when assessing the relevancy of documents filed after a hearing, including that the evidence could not have been obtained with reasonable diligence for use at the trial, that the evidence must be that which would probably have an important influence on the result of the trial, and the evidence must be apparently credible.<sup>3</sup>

[10] I have considered the *Murray* case and determined that I am not bound by it in coming to a decision in this matter. The parties in *Murray* agreed to the test to be applied, meaning the Federal Court never considered what the appropriate test ought to be, and the context of the case is significantly different from the matter before me. Finally, administrative and judicial justice are not the same, and I am not bound by the evidentiary rules that bind a court of law. Given the absence of any binding authority, I find the Tribunal is able to adopt its own test regarding the admission of post-hearing documents.

[11] The Tribunal's Chairperson, as she was in 2016, issued a Practice Direction<sup>4</sup> on the procedure for addressing post-hearing documents. The Practice Direction states the Member must

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<sup>2</sup> The *Social Security Regulations* reflect the goals of efficiency, fairness, and expeditious hearings at sections 2 and 3(1)(a)

<sup>3</sup> *Murray v. Attorney General of Canada*, 2013 FC 49

<sup>4</sup> Social Security Tribunal Practice Direction 2016-01 – Procedure for dealing with post-hearing documents, September 12, 2016

consider whether to admit the post-hearing documents without asking the parties for their submissions, or whether to ask the parties to explain why the documents should or should not be admitted. If the Member decides to admit the documents, the Member has the option of re-opening the hearing, giving the other party an opportunity to respond or rendering a decision.

[12] I have provided the Claimant the opportunity to respond to the Commission's first submission regarding the purpose of payments made by her employer during the EI benefit period. I did not invite the Claimant to respond to the Commission's April 18, 2019, post-hearing submission because the Claimant explained her position that there was no evidence she received EI payments at all at the hearing. This is something the Claimant had the opportunity to explain, and upon which I questioned her. It was her submission that precipitated the investigation into whether benefits were paid. There is no reason to believe the probative value of providing further time for additional submissions would outweigh the impact of further prolonging the delay in this file where the Claimant has already addressed this point.

[13] I also considered the relevancy of the Commission's post-hearing evidence, its probative value, whether the evidence will serve the interests of justice, whether there is prejudice to the other party, whether its acceptance would cause undue delay, whether it could have been provided at an earlier date, and whether deadlines for submissions were respected. I find the Commission's evidence is relevant to the matter, and clarifies questions discussed at the hearing. Accepting this evidence serves the interests of justice because it enables me to make a factually sound decision, and there is no delay caused by my acceptance of these documents because the deadline for the Claimant to reply to the Commission's first submission is the same as the deadline I gave to the Commission for the second submission. There is no additional time being lost. I find the evidence could not have been provided at an earlier date, because the Commission made efforts to communicate with the employer and determine the origin of payments in the adjudication process but received no response. This lack of response was not the Commission's fault, and there was little it could do beyond asking the employer, repeatedly, to explain the payments. With respect to whether the Claimant even received EI payments, the Commission could have provided that information at an earlier date, but was reasonable in not doing so because the argument was not raised anywhere else in the file and there was no indication the Claimant was going to argue that she did not receive benefits. Finally, I find that no prejudice is caused to either party by the

acceptance of these documents. The Claimant was given the opportunity to respond to the first document, which related to the source and purpose of employer payments, and the second submission responds to her argument that there is no evidence she was paid EI benefits.

[14] As such, I determined the post-hearing documents would be admitted, and have chosen to render a decision based on the material before me, including the docket, post-hearing submissions, and testimony and submissions from the hearing.

[15] I also note that the original General Division hearing also heard the Claimant's appeal on the matter of penalty. The Appeal Division issued its decision on January 11, 2019, confirming I cannot reconsider the issue of penalty as it was not appealed to the Appeal Division.

## **ISSUES**

[16] **Issue #1** – Was the Claimant paid EI benefits for sickness from December 29, 2013, to April 26, 2014?

[17] **Issue #2** – Was the Claimant paid supplemental benefits from her employer from December 29, 2013, until April 26, 2014?

[18] **Issue #3** – Did the Claimant receive monies from the employer that constituted earnings requiring allocation?

**Issue #1: Was the Claimant paid EI benefits for sickness from December 29, 2013, to April 26, 2014?**

[19] I find on a balance of probabilities that the Claimant was paid EI sickness benefits from December 29, 2013, until April, 26, 2014.

[20] The Claimant's representative submitted at the hearing that there was no evidence the Claimant actually received sickness benefits. The Commission submitted the Claimant was paid 15 weeks of sickness benefits, from December 29, 2013, through April 26, 2014.

[21] I asked the Commission to provide a breakdown of the Claimant's benefit payments during this period. The Commission submitted the Claimant was paid by direct deposit, which can take

up to three days to process so the dates she was paid by the Commission and the dates on her bank statement may not be a perfect match.

[22] The Commission reviewed its benefit payments against the bank statements provided by the Claimant. At the hearing, I referred to deposits made by “CANADA” on the Claimant’s bank statements and asked the Claimant to what those entries related. She stated she did not know. The Commission submits that its payment of EI benefits appears on bank statements as “CANADA.” I find, on a balance of probabilities, that the entries on the bank statements noted as “CANADA,” which correspond to the Commission’s submissions, are in fact the EI sickness benefits.

[23] The Commission submitted that the Claimant served a two week unpaid waiting period, during which no benefits are payable, from December 29, 2013, until January 11, 2014. On March 21, 2014, the Commission issued payment for two weeks of sickness benefits from January 12, 2014, to January 25, 2014. The Commission submits the \$900.00 in benefits matches the Claimant’s bank deposit on March 25, 2014.

[24] On April 4, 2014, the Commission issued payment for two weeks of sickness benefits from January 26, 2014, to February 8, 2014. The Commission submits the \$900.00 in benefits matches the Claimant’s bank deposit on April 8, 2014.

[25] On April 18, 2014, the Commission issued payment for two weeks of sickness benefits from February 9, 2014, to February 22, 2014. The Commission submits the \$900.00 in benefits matches the Claimant’s bank deposit on April 23, 2014.

[26] On May 5, 2014, the Commission issued payment for two weeks of sickness benefits from February 23, 2014, to March 8, 2014. The Commission submits the \$900.00 in benefits matches the Claimant’s bank deposit on May 7, 2014.

[27] On May 16, 2014, the Commission issued payment for two weeks of sickness benefits from March 9, 2014, to March 22, 2014. The Commission submits the \$900.00 in benefits matches the Claimant’s bank deposit on May 21, 2014.

[28] On May 30, 2014, the Commission issued payment for two weeks of sickness benefits from March 23, 2014, to April 5, 2014. The Commission submits the \$900.00 in benefits matches the Claimant's bank deposit on June 3, 2014.

[29] On June 13, 2014, the Commission issued payment for two weeks of sickness benefits from April 6, 2014, to April 19, 201. The Commission submits the \$900.00 in benefits matches the Claimant's bank deposit on June 17, 2014.

[30] On June 27, 2014, the Commission issued a payment for one week of sickness benefits from April 20, 2014 to April 26, 2014. The Commission submits it is unable to verify the payment as the Claimant's banking information is only provided until June 30, 2014, but it is logical to infer that a payment of \$450.00 under the name of "CANADA" appears on her bank statements in the month of July 2014. The Commission submits that as it can verify that 14 of the 15 weeks of sickness benefits were paid to the Claimant, it is reasonable to conclude the Claimant received payment of the last week of sickness benefits.

[31] I have reviewed the Commission's submission, and the Claimant's bank statements, and have considered the Claimant's position that there was no evidence she was paid sickness benefits. I find the Claimant was paid 15 weeks of EI sickness benefits, matching the breakdown provided by the Commission. The bank statements clearly show entries matching the amounts identified by the Commission as payments from "CANADA," which is the direct deposit code I would expect to see on a bank statement relating to a federal payment of EI benefits, and where the statement is unavailable, it is indeed logical to infer the Claimant was paid the additional benefits based on the Commission's records of having paid the Claimant for the previous 14 weeks.

[32] I find on a balance of probabilities that the Claimant was paid EI benefits for sickness from December 29, 2013, until April 26, 2014.

**Issue #2: Was the Claimant paid supplemental benefits from her employer from December**

**29, 2013, until April 26, 2014?**

[33] I find the Claimant was paid supplemental benefits from her employer at the same time she received EI benefits for sickness.

[34] The Claimant initially submitted to the Commission that she was not paid supplemental benefits from her employer from December 29, 2013, until April 26, 2014. The Record of Employment, dated January 30, 2014, shows a last day for which the Claimant was paid of January 10, 2014, and a weekly wage loss indemnity payment of \$1,017.60 starting on September 30, 2013. The Claimant testified that she received sick leave and Short-Term Disability (STD) benefits from the employer.

[35] The Commission determined the Claimant had “full working weeks” in certain weeks of the benefit period, which resulted in undeclared earnings and an overpayment. A Record of Employment shows that the Claimant attempted to return to work in January 2014. The Claimant was unsuccessful in this return, but a separate Record of Employment shows she again attempted to return to work in April 2014. Again, the Claimant was unsuccessful and left her employment due to illness.

[36] At the previous hearing of this matter the General Division found, based on the employer’s Request for Payroll Information Form, that the Claimant had gross earnings for the week starting January 5, 2014, January 12, 2014, February 2, 2014, April 13, 2014, and April 20, 2014. The file shows the Claimant denied receiving any funds from her employer during that timeframe. The earnings are identified by the employer as:

<b>The Week Of:</b>	<b>Total Gross Earnings:</b>
January 5, 2014	\$1,017.60
January 12, 2014	\$1,017.60
February 2, 2014	\$407.04

April 13, 2014	\$207.60
April 20, 2014	\$207.60

[37] The General Division previously determined that the payment for the week starting January 5, 2014, related to a wage loss indemnity, so it was not considered earnings during the waiting period.<sup>5</sup> Although the payment of \$1,017.60 for the week starting January 12, 2014 was also considered to relate to a wage loss indemnity, it was made after the waiting period ended. The General Division determined that the payment was therefore not exempt under the *Employment Insurance Regulations* and was considered earnings.

[38] The employer reported that the payment of \$407.04 for the week starting February 2, 2014, represented “unused personal leave from the previous year paid in February.” The employer did not describe the nature of the payments for the weeks starting April 13, 2014, and 20, 2014.

[39] The Claimant stated to the Commission that she can no longer access her paycheque stubs and relies on banking statements to prove that she did not receive these funds or, for that matter, any funds from her employer. However, the banking statements disclose that the following funds were directly deposited into her account by the employer:

<b>Date</b>	<b>Payer</b>	<b>Net Amount</b>
January 16, 2014	Employer	\$1,334.13
January 30, 2014	Employer	\$1,362.63
February 13, 2014	Employer	\$1,578.02
February 27, 2014	Employer	\$1,365.68
March 13, 2014	Employer	\$1,285.42

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<sup>5</sup> *Employment Insurance Regulations*, section 39(3)(a)

March 27, 2014	Employer	\$1,362.70
April 10, 2014	Employer	\$381.98
April 24, 2014	Employer	\$582.35

[40] Neither the dates nor the amounts on the Claimant's banking statements match the employer's payroll information, even taking into account any statutory or other deductions that might have been made from the gross earnings. The Commission's previous efforts to contact the employer to clarify the nature of the payments listed in the banking records were unsuccessful, but it was able to obtain further information following the Appeal Division decision, which it submitted to the Tribunal on April 12, 2019.

[41] The Commission submitted the employer clarified that the claimant was not working from January 5, 2014, until April 26, 2014, as she was paid STD and a Supplemental Unemployment Benefit (SUB) or top-up for her sick leave. The Commission submits the top-up is not considered earnings for employment insurance purposes.<sup>6</sup> The Commission further submitted that the top-up would not be allocated on the Claimant's file as the employer's SUB plan is approved by the Commission.

[42] The Commission also submitted that the employer provided sufficient evidence to indicate the STD was not part of a group or private plan. It submits the Claimant's STD payments are earnings<sup>7</sup> and must be allocated to the weeks in respect of which the payments were paid or payable.<sup>8</sup>

[43] The Commission explained that the employer advised the conflicting payroll information is the result of a limitation in its payroll system. For the first week of STD, the employer stated it paid the employee 100% of her wages and in the subsequent pay period the employer deducted the

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<sup>6</sup> *Employment Insurance Regulations*, section 37(1)

<sup>7</sup> *Employment Insurance Regulations*, section 35(2)(c)

<sup>8</sup> *Employment Insurance Regulations*, section 36(12)(b)

amount so only 70% of the STD was paid to the employee in the prior pay period. For this reason, the employer stated the Claimant's paystub varied from week to week.

[44] The employer also refuted the Claimant's submission that she could not access her payroll information. The Commission submits the employer stated that the Claimant could access her payroll information through the employer's self-serve system or could request her pay stubs from her employer and the information would have been sent to her.

[45] The Claimant has submitted that she did not receive cheques and there is no evidence that she received monies from her employer while in receipt of EI benefits. I find this unconvincing, given the bank statements showing her receipt of monies from the employer while the Claimant was in receipt of EI benefits. The Commission submits the employer stated the Claimant was paid current, which means the money was deposited in her bank account on the Thursday at the end of each pay period. It also added that the amounts provided by the Claimant on bank statements are net amounts, but the amounts provided by the employer are in gross, which also accounts for a lack of consistency.

[46] The Commission submits that the employer has explained the confusion regarding amounts of money, and has firmly established that the monies received by the Claimant are predominately earnings. The employer is recorded as having stated that the Claimant was paid \$711.94 in STD (70% of her Normal Weekly Earnings of \$1,017.06) and then \$259.50 in employer-paid top up of her EI benefits, for each week, from January 5, 2014, until April 26, 2014. The employer also stated the Claimant received \$407.00 for two personal days for the week of February 9, 2014, and \$120.00 for a "boot allowance" for the week of April 20, 2014. The Commission submitted that as the Claimant has not returned to work, and the boot allowance and personal days will be allocated to a period of work, it is reasonable to conclude the boot allowance and personal days are to be allocated outside of the claimant's benefit period commencement of December 29, 2013. I agree with this submission.

[47] The Commission also submits the employer stated the Claimant received \$203.55 in statutory holiday pay for January 1, 2014. It submits the statutory holiday pay is earnings requiring allocation to the week of the holiday.<sup>9</sup> I also agree with this position.

[48] The Commission submits the employer stated the STD ended on April 27, 2014, and that it deducted \$450 per week from the Claimant's paystub between March 30, 2014, and May 8, 2014. The Commission submitted it would deduct the same amount from the STD as of March 30, 2014, until April 26, 2014, corresponding to the last week of sickness benefits paid to the Claimant.

[49] I acknowledge the employer has provided conflicting information, but find on a balance of probabilities its April 12, 2019, submission is the best evidence and most accurately reflects the picture relative to the employer's payment of benefits to the Claimant because it is thorough and explains the bank statements, which include the net amounts that the Claimant was paid by the employer during her EI benefit period.

[50] The Claimant has been unable to present any evidence to rebut the Commission's submission of the employer's evidence, and has simply stated that she was not paid by the employer while in receipt of EI benefits, while also arguing that there is no evidence that she was paid EI benefits. I understand having a fall back position, but in this case the Claimant's submissions are lacking in credibility. The Claimant provided bank statements which show she was paid by her employer and by the federal government, under entries of "CANADA." She was asked to explain what the "CANADA" payments were for, and stated she did not know. She also testified that she does not go in to the bank and her husband is the one who knows what comes in and what goes out of her account, and she did not know what was paid into her account. She alternatively added that if there was a payment, she should not be liable for any potential overpayment because she did not know and because of financial difficulties. I do not find the Claimant's submissions compelling, or sufficient to tip the balance of probabilities in her favour.

[51] The Claimant also testified that she recognizes she was paid monies from her employer, as the entries appear on her bank statements, but she does not know if they were for sick benefits or another reason. She stated she did not know the money was deposited until she got the statements.

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<sup>9</sup> *Employment Insurance Regulations*, sections 35(2)(a) and 36(13)

[52] I find the Claimant was paid supplemental STD benefits from her employer from December 29, 2013, until April 26, 2014.

**Issue #3: Did the Claimant receive monies from the employer that constituted earnings requiring allocation?**

[53] The *Employment Insurance Regulations* identify earnings as “the entire income of a claimant arising out of any employment.”<sup>10</sup> These earnings are to be taken into account for the purpose of, amongst other things, determining earnings to be deducted from benefits. That is the applicable purpose in this case. The income must be linked to employment, either as amounts earned by labour or given for work, or there must be a sufficient connection between the employment and the money received.<sup>11</sup> The onus is on the Claimant to show that the money was for something other than earnings.<sup>12</sup>

[54] The Commission submits the Claimant received \$711.94 in earnings for each week from January 5, 2014, until April 26, 2014, from the employer and this money was paid to her as STD. As the employer deducted \$450 from the Claimant’s pay stub from March 30, 2014, until May 8, 2014, the Commission submits it will deduct the same amount from the STD from March 30, 2014, until April 26, 2014. The Commission maintains that this money constitutes earnings because the payment was made to compensate the Claimant for an employment benefit, which arises out of the Claimant’s employment.<sup>13</sup> I find the Commission’s interpretation of this is correct, and it correctly allocated these earnings to the weeks in respect of which the payments are paid or payable.<sup>14</sup>

[55] The Commission also addresses the statutory holiday pay related to January 1, 2014, and finds it is earnings requiring allocation to the week of the holiday.<sup>15</sup> I agree with this submission as well.

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<sup>10</sup> *Employment Insurance Regulations*, section 35(2)

<sup>11</sup> *Canada (Attorney General) v. Roch*, 2003 FCA 356

<sup>12</sup> *Bourgeois v. Canada (A.G.)*, 2004 FCA 117

<sup>13</sup> *Employment Insurance Regulations*, section 35(2)(c)

<sup>14</sup> *Employment Insurance Regulations*, section 36(12)(b)

<sup>15</sup> *Employment Insurance Regulations*, section 35(2)(a) and 36(13)

[56] The Commission submits that the retroactive allocation of the Claimant's earnings modifies the overpayment, from \$1,851 to \$6,702.

[57] The Claimant's arguments have failed to convince me that she did not receive monies from her employer while also in receipt of EI benefits. Unfortunately for the Claimant, the detailed review and fact finding process has established a timeline of events and payments which support a higher overpayment than was initially established. While the Claimant did not provide submissions relative to the Commission's position on the increased overpayment, though invited by me to respond, I find the Commission is justified in increasing the overpayment. The *Employment Insurance Act* states a Claimant is liable to repay an amount paid by the Commission to the Claimant as benefits to which the Claimant is not entitled.<sup>16</sup> While a number of years have passed since the benefits were paid, the *Employment Insurance Act* also states that no amount due under this section may be recovered more than 72 months after the day on which the liability arose,<sup>17</sup> but the date the liability arose is not the date when the benefits were paid. The Federal Court of Appeal has confirmed that the date on which the Commission notifies the Claimant of the amount to be repaid determines the starting point of the prescription period for recovery of the debt.<sup>18</sup> As the Commission first notified the Claimant of the initial overpayment on December 31, 2016, that is the date which commences the 72 month limitation period to recover the overpayment.

[58] The delay in recovery is, as discussed above, allowed by legislation and the Commission is within its rights to request the overpayment be repaid.

[59] While the representative submitted the Commission has no proof showing whether the monies in question came from EI benefits or the employer, I find the evidence submitted is sufficient to find, on a balance of probabilities, that the Claimant was paid both EI benefits for sickness and an employer STD benefit at the same time. The Claimant was thus overpaid, because she was not entitled to the sickness benefits received while in receipt of STD benefits.

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<sup>16</sup> *Employment Insurance Act*, section 43(b)

<sup>17</sup> *Employment Insurance Act*, section 47(3)

<sup>18</sup> *Brière v. Canada (Employment and Immigration Commission)*, [1989] 3 FC 88, at paragraph 66

[60] The Claimant submitted to a previous Member that if she received the money in question, she requests the Tribunal waive the disputed amount because of her financial hardship. I recognize this request, but have no jurisdiction to waive the overpayment.

[61] Having reviewed the extensive documentation in this file, and considered the testimony, I find the Claimant was paid both EI benefits for sickness, as well as employer STD benefits at the same time. As a result, the Claimant was both in receipt of earnings requiring allocation under the law described above and overpaid EI benefits to which she was not entitled. Due to this, the Claimant has accumulated a substantial overpayment. While it is regrettable that the pursuit of her appeal has increased her debt, the law is clear that a Claimant is required to repay benefits to which they were not entitled.

**CONCLUSION**

[62] The appeal is dismissed on all issues.

Candace R. Salmon

Member, General Division - Employment Insurance Section

HEARD ON:	April 15, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	R. S., Appellant N. S., Representative for the Appellant