



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *I. K. v Canada Employment Insurance Commission*, 2019 SST 506

Tribunal File Number: AD-18-766

BETWEEN:

I. K.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Request for Extension of Time by: Pierre Lafontaine

Date of Decision: May 23, 2019

DECISION AND REASONS

DECISION

[1] The Tribunal refuses an extension of time to file an application for leave to appeal.

OVERVIEW

[2] The Applicant, I. K. (Claimant), made an initial claim, and a benefit period was established. During that period, the Claimant received regular Employment Insurance benefits, special benefits, and Québec Parental Insurance Plan (QPIP) benefits. The Claimant asked for that benefit period to be extended because he received only 15 weeks of regular benefits although he maintains that he was entitled to 40 weeks.

[3] The Canada Employment Insurance Commission (Commission) determined that the Claimant could not receive an extension of his benefit period because he had received 59 weeks of benefits during his benefit period. The Commission therefore determined that it did not need to consider extending the benefit period because the Claimant had already received all the weeks of benefits that he could receive during a single benefit period. The Claimant requested a reconsideration of that decision. However, the Commission upheld its initial decision. The Claimant appealed the reconsideration decision to the Tribunal's General Division.

[4] The General Division determined that QPIP benefits are considered parental benefits paid under section 23 of the *Employment Insurance Act* (EI Act). Consequently, QPIP benefits are considered special benefits as part of the combined weeks provided in section 12(6) of the EI Act. The General Division found that the benefit period could not be extended.

[5] The Claimant now seeks leave to appeal the General Division decision. He maintains that the General Division erred because the Québec Parental Insurance Plan and the Employment Insurance plan are different and that he contributed separately to each one.

[6] The Tribunal must decide whether it will accept the late request and, if so, whether it will grant leave to appeal. The Tribunal refuses an extension of time to file an application for leave to appeal.

ISSUES

[7] Should an extension of time be granted so that the Claimant can file his application for leave to appeal?

[8] If so, does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

ANALYSIS

Issue 1: Should an extension of time be granted so that the Claimant can file his application for leave to appeal?

[9] When deciding whether to grant an extension of time to file an application for leave to appeal, the question to ask is whether it would serve the interests of justice to grant this extension.

[10] The relevant factors to consider are the following:

- a) whether the appeal discloses an arguable case;
- b) whether special circumstances justify the delay in filing the notice of appeal;
- c) whether the delay is excessive; and
- d) whether the extension of time would cause prejudice to the Commission.

[11] Although the Commission would not be prejudiced by an extension of time to file the application for leave to appeal, the Tribunal finds that the delay of three months that passed before the Claimant filed the application is excessive. There are no special circumstances that would have prevented the Claimant from filing his application for leave to appeal on time. Being surprised and disappointed by the General Division's decision or an unsuccessful job search are not special circumstances.

[12] Furthermore, the Tribunal is not satisfied that the Claimant has an arguable case or that the appeal has a reasonable chance of success.

[13] Based on the evidence, the Claimant received 15 weeks of regular benefits, 10 weeks of special benefits for a critically ill child, and 34 weeks of QPIP special benefits. The Claimant therefore received 59 weeks of benefits, which is more than the maximum of 50 weeks provided in section 12(6) of the EI Act.

[14] Section 76.19(1) of the *Employment Insurance Regulations* reads as follows:

Subject to subsection (2), the provincial benefits paid to a claimant in respect of a week in a benefit period are considered to be benefits paid in respect of a week under the Act if the claimant would have been entitled to the corresponding types of benefits under the Act, and **any week in respect of which the claimant receives provincial benefits counts as a week for the purpose of calculating**

(a) the overall maximum number of weeks for which benefits may be paid in a benefit period under paragraphs 12(3)(a) and (b) of the Act taken together

[15] Maternity and parental Employment Insurance benefits are offered to parents who are caring for a newborn or newly adopted child or children. The Québec Parental Insurance Plan (QPIP), which provides for the payment of benefits to all eligible workers, whether salaried or self-employed, who are taking maternity leave, paternity leave, parental leave, or adoption leave, is also designed to offer financial support to new parents who want to devote more time to their children in their first months. The purpose of the two plans is the same.

[16] Claimants under the Québec Parental Insurance Plan (QPIP) therefore cannot receive Employment Insurance (EI) benefits for the same period and the same purposes as those covered by the Québec plan. It is clear that Parliament's intention was to avoid the duplication of benefits.

[17] The Tribunal is of the view that the Claimant has not identified errors of jurisdiction or law that the General Division may have made or erroneous findings of fact that it may have made in a perverse or capricious manner or without regard for the material before it in giving its decision.

[18] After considering the factors mentioned above, the Tribunal is not satisfied that granting an extension of time is in the interests of justice.

CONCLUSION

[19] The Tribunal refuses an extension of time to file an application for leave to appeal.

Pierre Lafontaine
Member, Appeal Division

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| REPRESENTATIVE: | I. K., self-represented |
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