



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. P. v Canada Employment Insurance Commission*, 2019 SST 892

Tribunal File Number: GE-19-2307

BETWEEN:

P. P.

Appellant/Claimant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Eleni Palantzas

HEARD ON: July 3, 2019

DATE OF DECISION: July 31, 2019

DECISION

[1] The appeal is dismissed. The Claimant, P. P., has not provided the required medical documentation to prove that he was unable to work from September 1, 2013 to December 14, 2013.

OVERVIEW

[2] On August 18, 2013, the Claimant applied for employment insurance sickness benefits. To prove that he was unable to work, he submitted two medical reports to the Canada Employment Insurance Commission (Commission). The Commission paid the Claimant 15 weeks of sickness benefits from September 1, 2013 to December 14, 2013. Later, the Commission noted that the handwriting from the two medical notes, from two different doctors, were the same. Through further investigation, the Commission determined that the medical notes allegedly submitted by Dr. Anna T. Dai and Dr. James B. Wang were fraudulent. The Commission retroactively disentitled the Claimant to the benefits he had received resulting in an overpayment. The Claimant requested that the Commission reconsider its decision arguing that had obtained assistance and paid an agency to help him with his claim. He did not know, or suspect, that the people he saw were not legitimate doctors. The Claimant submitted that he was unable to work during this period and that he has had chronic back problems for years. The Commission however, did not change its decision so the Claimant appealed to the Social Security Tribunal of Canada (Tribunal).

ISSUE

[3] I must determine whether the Claimant was entitled to the 15 weeks of sickness benefits he received from September 1, 2013 to December 14, 2013.

1. Has the Claimant provided medical evidence that he was unable to work from September 1, 2013 to December 14, 2013?

ANALYSIS

[4] A claimant is not entitled to receive benefits if they fail to prove that they are unable to work because of an injury or illness, and that they would otherwise be able to work.¹

[5] A claimant must provide a medical certificate completed by a medical doctor or other medical professional that confirms they are unable to work, and the likely duration of the illness or injury.²

[6] At any time, the Commission may want a claimant to provide more information about their claim for benefits.³ If the claimant does not provide the required information, they are not entitled to receive benefits for as long as they do not comply with the Commission's request.⁴

[7] The Commission has requested that the Claimant provide evidence of his inability to work during the period that he had previously received sickness benefits. He is disentitled to those benefits until he proves he was unable to work.

Issue 1: Has the Claimant provided medical evidence that he was unable to work from September 1, 2013 to December 14, 2013?

[8] No. Unfortunately, despite the Claimant's efforts to show that he has a chronic back problem, he has not provided medical evidence that he was unable to work during this period.

[9] The Commission submitted that from August 18, 2013 to March 6, 2014, the Claimant has not proven the he was unable to work. The Commission submitted that the Claimant failed to prove that he was entitled to sickness benefits because the medical reports he provided were fraudulent. It submitted that "Dr." Anna T. Dai and "Dr." James B. Wang are not medical doctors. As a result, the Claimant was retroactively disentitled to the sickness benefits he received from September 1, 2013 to December 14, 2013.

¹ Section 18(b) of the *Employment Insurance Act* (EI Act)

² Section 40(1) of the *Employment Insurance Regulations* (Regulations)

³ Section 50(5) of the EI Act

⁴ Section 50(1) of the EI Act

[10] The Claimant submitted that he stopped working for his employer on August 16, 2013 because of back and shoulder pain. He testified that he was unable to continue in his job as a mechanic. He went to see doctors recommended to him by an agent that he paid to represent him. The Claimant submitted that he was misled to see a doctor that was not registered and the agent he hired cheated him.

[11] The Claimant testified that he has no other medical records to provide as evidence of his incapacity during the period of August 18, 2013 to March 6, 2014. The only evidence he could provide is a detailed account of all the other (legitimate) doctors he has seen outside these dates – both before and after from 2010 to 2019 (GD5, GD6, GD7 and GD8). He submitted that this evidence shows that he truly does have a chronic back condition that has lasted for years. He testified that had he known that the person he saw was not a doctor, he could have gone to see another doctor at the time without a problem. He honestly could not work when he left his job for medical reasons back in August of 2013.

[12] On the other hand, the Commission has provided the following evidence to prove that the medical documentation provided by the Claimant is fraudulent i.e. the medical notes (GD3-19 and GD3-24) were not completed by medical doctors. First, Dr. Anna T. Dai and Dr. James B. Wang are not on the College of Physician and Surgeon of Ontario website as licensed doctors (GD3-59 and GD3-69 to GD3-71). Second, the address provided on the medical note from Dr. Anna T. Dai is for someone else's office who has been at that location for 5 years (GD3-60 to GD3-68). A picture of the address for Dr. James B. Wang is a house not a medical centre (GD3-72 and GD3-73). The phone number provided on the medical report are not offices according to a search on the internet (GD3-74). The Commission also points out that the handwriting is the same for both "doctors" on the two medical notes (GD3-19 and GD3-24).

[13] It is not for me to decide whether the Claimant knowingly provided fraudulent medical reports in order to receive sickness benefits. I must decide whether the Claimant provided the medical information requested by the Commission and whether he has proven that he is entitled to the 15 weeks of sickness benefits, he received from September 1, 2013 to December 14, 2013.

[14] I appreciate that the Claimant has gathered and documented all the other medical professionals he has seen over the past 10 years. Unfortunately, he has admittedly not been able

to provide any evidence to (a) prove he was unable to work for the period in question and (b) rebut the evidence submitted by the Commission. I find that, given the evidence provided by the Commission, and on a balance of probabilities, “Dr.” Anna T. Dai and “Dr.” James B. Wang are not medical doctors and the two medical notes (GD3-19 and GD3-24) are fraudulent.

[15] In the absence of any other medical evidence that shows the Claimant was unable to work from August 18, 2013 to March 29, 2014, I find that the Claimant has not proven his entitlement to the sickness benefits he received from September 1, 2013 to December 14, 2013. He must therefore pay these benefits back to the Commission.⁵

CONCLUSION

[16] The appeal is dismissed.

Eleni Palantzas

Member, General Division - Employment Insurance Section

HEARD ON:	July 3, 2019
METHOD OF PROCEEDING:	In person
APPEARANCES:	P. P., Appellant

⁵ Section 43 of the EI Act