



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *S. B. v Canada Employment Insurance Commission*, 2019 SST 947

Tribunal File Number: GE-19-2977

BETWEEN:

**S. B.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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

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DECISION BY: Christopher Pike

DATE OF DECISION: August 23, 2019

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant (Claimant) applied for employment insurance benefits on December 20, 2017 after her employer dismissed her. The Respondent (Commission) said the Claimant was not qualified to receive benefits because she voluntarily left her employment without just cause. The Claimant asked the Commission to reconsider its decision. On April 13, 2018 the Commission issued a decision under section 112 of the *Employment Insurance Act* maintaining the Claimant's disqualification. The Claimant appealed that decision to the Tribunal on August 16, 2019.

[2] A claimant has to appeal a reconsideration decision within 30 days of the day the Commission tells them about it.<sup>1</sup>

[3] I have to decide if the Claimant filed her appeal on time.

### ANALYSIS

[4] The Claimant did not file her appeal on time.

[5] The Commission must prove that it unambiguously communicated the nature and effect of its decisions to a claimant.<sup>2</sup> The deadline for filing a claim starts when the decision is communicated to the claimant. I have authority to allow more time for a claimant to file an appeal after this deadline has passed as long as no more than one year has passed after the day on which the Commission told them about its decision.<sup>3</sup>

[6] The Claimant stated in her Notice of Appeal that she does not recall when the Commission told her about its April 13, 2018 decision. The Commission's file includes notes made by one of its agents in during telephone conversation between the agent and the Claimant on April 13, 2018. These notes show that the Claimant and the agent discussed details of her

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<sup>1</sup> Paragraph 52(1)(b) of the *Department of Employment and Social Development Act* creates this rule.

<sup>2</sup> *Bartlett v Canada (Attorney General)*, 2012 FCA 230 explains the Commission's obligation to communicate its decision to claimants. *Peace Hills Trust Co. v Moccasin*, 2005 FC 1364 and; *Skycharter Ltd. v Canada (Minister of Transport)*, T-2625-96 explain the Commission's obligation to communicate the nature and effect of its decision.

<sup>3</sup> Subsection 52(2) of the *Department of Employment and Social Development Act* creates this rule. *Fazal v. Canada (Attorney General)*, 2016 FC 487 interprets it. If more than a year has passed since the Commission communicated its decision to the Appellant, the law requires me to apply the principles set out in this case to his appeal.

claim and that the agent then told the Claimant that she could not overturn the Commission's original decision. The notes also show that the Claimant told the agent that she knew her claim would be denied. The Commission's file also includes a copy of a letter prepared by the agent on April 13, 2018.

[7] The Claimant's right to appeal to the Tribunal was mentioned in both the April 13, 2018 telephone call and the letter sent the same day.

[8] This evidence shows that the Commission's reconsideration decision was communicated to the Claimant on April 13, 2018 and that she understood the nature and substance of it. The Claimant's appeal was filed with the Tribunal on August 16, 2019, which is more than a year after April 13, 2018.

[9] I have no authority to extend the time for the Claimant to file her appeal if she files it more than a year after the reconsideration decision she wishes to appeal was communicated to her.<sup>4</sup> Any explanation that the Claimant might offer for filing her appeal late is irrelevant.<sup>5</sup> Because the Claimant filed her appeal more than a year after the Commission communicated its reconsideration decision to her the appeal cannot proceed.

## **CONCLUSION**

[10] I am sympathetic to the Claimant's circumstances. However, the law I have to apply is clear and leaves me no discretion to allow her appeal to proceed. The appeal is dismissed.

Christopher Pike  
Member, General Division - Employment Insurance Section

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<sup>4</sup> As explained above, section 52(2) of the *Department of Employment and Social Development Act* says that an appeal in no case be made more than a year after Commission communicates a reconsideration decision.

<sup>5</sup> *M. E. v Minister of Employment and Social Development*, 2016 CanLII 59043 is an example of a case which says any explanation that the Claimant offers is irrelevant.