



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. A. v Canada Employment Insurance Commission*, 2019 SST 1491

Tribunal File Number: GE-19-3017

BETWEEN:

S. A.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Amanda Pezzutto

HEARD ON: September 5, 2019

DATE OF DECISION: September 11, 2019

DECISION

[1] I am dismissing the Claimant's appeal. He has not proven that he had good cause for his delay in applying for employment insurance benefits.

OVERVIEW

[2] The Claimant stopped working at his long-term job in January 2018. He applied for employment insurance benefits in May 2019. He asked the Canada Employment Insurance Commission (Commission) to start his benefits from his last day of work. The Commission decided that the Claimant did not have good cause for his delay in applying for benefits. The Commission refused to start the Claimant's benefits from the earlier date. The Claimant asked the Commission to review its decision. The Commission did not change its decision. The Claimant appealed to the Tribunal.

[3] I am dismissing the Claimant's appeal. The Claimant has not shown that he acted like a reasonable person who wanted to understand his entitlement to employment insurance benefits. He has not proven that his situation was exceptional. He does not have good cause for his delay.

ISSUES

[4] Issue 1 – Does the Claimant have good cause for his delay in applying for employment insurance benefits?

ANALYSIS

[5] When your application for employment insurance benefits is later than your last day of work, the Commission usually starts your benefit period in the week you applied.¹ You can ask the Commission to start your benefit period earlier, but you have to show that you qualify for benefits on the earlier date, **and** that you have good cause for being late.²

[6] You show that you have good cause for being late by proving that you acted reasonably. Imagine a reasonable person in the same situation as yours. What would that person do to

¹ Section 10(1) of the *Employment Insurance Act*.

² Section 10(4) of the *Employment Insurance Act*.

understand their employment insurance entitlement?³ Unless your situation was somehow exceptional, you have to prove that you acted reasonably quickly to understand what you needed to do to receive employment insurance benefits.⁴

Issue 1: Does the Claimant have good cause for his delay in applying for employment insurance benefits?

[7] The Claimant does not have good cause for his delay. He has not shown that his situation was exceptional. He has not shown that he acted like a person who wanted to understand more about his potential entitlement to employment insurance benefits.

[8] At the hearing, the Claimant said that he delayed applying for employment insurance benefits for several reasons. His mother-in-law is ill and he had to care for her. His brother lives in Kurdistan. His brother has heart disease and the Claimant had to speak to several doctors to get medical advice and medication for his brother's condition. He was depressed because he had lost his job. He had been looking for work. He hoped that he would not need employment insurance benefits. He was not experienced with the employment insurance scheme. He was confused about how his pension would affect his entitlement to employment insurance benefits.

[9] The Claimant said that he tried phoning the Service Canada call centre sometime in October or November 2018. He could not get through and he did not try calling again.

[10] I accept that the Claimant had extra responsibilities because of his mother-in-law's poor health. I also understand that he was anxious about his brother's health. However, the Claimant has not shown that his situation was exceptional. He did not have to travel to care for his mother-in-law or his brother. Even though he was caring for his family members, he continued to look for work. He said that he could have accepted a job, even with his family responsibilities. The

³ Claimants have to prove that they acted as a reasonable person in the same situation would have done to understand their rights and obligations under the *Employment Insurance Act*. The Federal Court of Appeal says this at paragraph 4 in its decision *Canada (Attorney General) v. Kaler*, 2011 FCA 266.

⁴ At paragraph 11 in its decision *Canada (Attorney General) v. Somwaru*, 2010 FCA 336, the Federal Court of Appeal says that, "barring exceptional circumstances, a prospective claimant ... is expected to take 'reasonably prompt steps'" to understand their obligations under the *Employment Insurance Act*.

Claimant has not proven that there were exceptional circumstances that affected his ability to apply for employment insurance benefits.

[11] The Claimant said that his “whole focus” was on getting a job and forgetting about employment insurance benefits. He submitted a very detailed job search record demonstrating that he actively looked for work throughout the period of delay. I believe that the Claimant has been actively looking for work. However, looking for work is not an exceptional circumstance.

[12] I accept that it was very difficult for the Claimant after he stopped working. He had been in his job for many years. However, the Claimant has not proven that his stress and anxiety about losing his job prevented him from looking for more information about employment insurance benefits. He has not shown that his situation was exceptional.

[13] The Claimant could have taken more steps to learn about employment insurance benefits. He could have tried calling the Service Canada call centre again. He could have visited a Service Canada Centre in person. He could have looked for information online. A reasonable person in the same situation as the Claimant would have taken steps to learn more about employment insurance benefits. However, the Claimant did not do any of these things.

[14] People who want to receive employment insurance benefits have to show that they acted reasonably quickly to find out more information about their rights. The responsibility to act reasonably quickly is very demanding and strict.⁵

[15] The Claimant has not proven that he acted reasonably quickly to learn about his rights. He has not shown that he acted like a reasonable person who wanted to understand the employment insurance scheme. He has not proven that he had good cause for his delay in applying for employment insurance benefits.

[16] The Claimant must show that he has good cause **and** that he qualifies for benefits on the earlier date. He does not have good cause for his delay, so I will not consider whether he qualifies for benefits on the earlier date.

⁵ The Federal Court of Appeal says this at paragraph 7 of its decision *Canada (Attorney General) v. Brace*, 208 FCA 118.

CONCLUSION

[17] I am dismissing the Claimant's appeal. He has not proven that he had good cause for his delay in applying for employment insurance benefits.

Amanda Pezzutto

Member, General Division - Employment Insurance Section

HEARD ON:	September 5, 2019
METHOD OF PROCEEDING:	In person
APPEARANCES:	S. A., Appellant