



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. B. v Canada Employment Insurance Commission*, 2019 SST 1060

Tribunal File Number: GE-19-3144

BETWEEN:

J. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Linda Bell

DATE OF DECISION: September 16, 2019

DECISION

[1] The appeal is dismissed. The Claimant has not shown that she had good cause for the delay in applying for Employment Insurance benefits. This means that the Claimant's application cannot be treated as though it was made on an earlier date.

OVERVIEW

[2] The Claimant applied for benefits on April 18, 2019. She is asking that the application be treated as if it was made earlier, on January 28, 2019. This is called antedating the application and the Commission has refused this request.

[3] The Claimant states she waited several months to submit her application for benefits because she was searching for another job. The Commission determined that this was not good cause for the Claimant's delay in submitting her application and denied her antedate request. The Claimant appeals this decision to the Social Security Tribunal and argues that she qualifies for benefits from January 28, 2019, until April 30, 2019. I find that this is not enough to show good cause for the delay, so her application will not be antedated.

ISSUE

[4] I must decide whether the Claimant's application for benefits can be treated as if it had been made on January 28, 2019.

ANALYSIS

[5] Claimants have to prove two things to have an application for benefits antedated:

- a) They had good cause for the delay during the whole period of the delay.
- b) They qualified for benefits on the earlier day.¹

[6] Since the main arguments before me are about whether there was good cause, I will start with that.

¹ Subsection 10(4) of the *Employment Insurance Act (Act)*.

[7] To show good cause, the Claimant has to prove that she acted like a reasonable and prudent person would have, in similar circumstances.² The Claimant has to show this for the entire period of the delay.³ For the Claimant, the period of delay is from January 28, 2019, to April 18, 2019.

[8] The Claimant also has to show that she took reasonably prompt steps to understand her entitlement to benefits and obligations under the law.⁴ If the Claimant did not take these steps, then she must show that there were exceptional circumstances that explain why she did not do it.⁵

[9] The Claimant has to prove that it is more likely than not,⁶ that she had good cause.

[10] The Claimant says that she had good cause for the delay because she was busy applying to all other jobs. She confirmed that she was aware of Employment Insurance benefits and that she had collected benefits in the past.

[11] The Commission says that the Claimant did not show good cause for the delay because this is not the Claimant's first time collecting benefits so she was aware that she could request benefits. The Commission submits there is no indication that the Claimant took any steps to learn her rights and obligations by checking the Service Canada website, calling the enquiry line, or going to her local Service Canada Office. The Claimant did not dispute this.

[12] I find that the Claimant has not proven that there was good cause for the delay in applying for benefits, because she has not demonstrated that she acted as a reasonable or prudent person. The Claimant provided no evidence that she took any steps to determine her entitlement to benefits when she lost her employment; rather, she states she was seeking employment elsewhere. Therefore, it cannot be said that she did what a reasonable and prudent person would have done in the same circumstances because she delayed in submitting her application for 80 days, until April 18, 2019.

² *Canada (Attorney General) v Burke*, 2012 FCA 139.

³ *Canada (Attorney General) v Burke*, 2012 FCA 139.

⁴ *Canada (Attorney General) v Somwaru*, 2010 FCA 336; *Canada (Attorney General) v Kaler*, 2011 FCA 266.

⁵ *Canada (Attorney General) v Somwaru*, 2010 FCA 336; *Canada (Attorney General) v Kaler*, 2011 FCA 266.

⁶ The Claimant has to prove this on a balance of probabilities which means it is more likely than not.

[13] Good cause for delay is not the same as having a good reason, or a justification for the delay. Although I commend the Claimant for her efforts of searching and applying for alternate employment, looking for work is not an exceptional circumstance that prevented her from determining her rights and obligations under the *Act*. Nor does this prove she acted like a reasonable and prudent person placed in the same circumstances, during the entire period of delay.

[14] The Claimant has not proven that she had good cause for the delay in applying for benefits throughout the entire period of the delay. So, it is not necessary for me to consider whether the Claimant qualified for benefits on the earlier day.

CONCLUSION

[15] The appeal is dismissed.

Linda Bell

Member, General Division - Employment Insurance Section

METHOD OF PROCEEDING:	Questions and answers
APPEARANCES:	None