



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *S. B. v Canada Employment Insurance Commission*, 2019 SST 1066

Tribunal File Number: GE-19-3103

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: Josée Langlois

HEARD ON: September 26, 2019

DATE OF DECISION: September 26, 2019

## **DECISION**

[1] The appeal is dismissed. I find that the Appellant's application for benefits cannot be considered to have been filed on October 28, 2018.

## **OVERVIEW**

[2] The Appellant applied for benefits on April 29, 2019, after he stopped working in his employment at X Hotel on October 28, 2018. On April 29, 2019, he asked the Canada Employment Insurance Commission (Commission) to consider his application retroactively. On July 29, 2019, the Commission found that the Appellant did not have good cause for his delay in filing his application. I must determine whether the Appellant's application for benefits must be considered to have been filed on October 28, 2018.

## **ISSUE**

[3] Did the Appellant have a reasonable explanation for his delay?

## **ANALYSIS**

### **Did the Appellant have a reasonable explanation for his delay?**

[4] A benefit period may be established at an earlier date when two conditions are met: the claimant shows that they qualified for benefits on the earlier day and there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the initial claim was made.

[5] Neither party disputes the Appellant's entitlement to benefits. I do not have all the necessary information to apply the facts to the law regarding the first condition of section 10(4) of the *Employment Insurance Act* (Act), and I reserve that question to analyze the second criterion. However, I note that a benefit period was established in the Appellant's favour.

[6] The Appellant told the Commission that he was outside Canada, in the Philippines, from December 4, 2018, to April 25, 2019. He explained that, before he left, he had no vehicle and he carpooled to go visit family or to get around. He also indicated that he did not have access to the

information needed to apply for benefits while he was outside Canada because he did not have Internet access. He would not have Internet access until March 2019, when he spoke to a Commission agent who explained to him the possibility of requesting that his claim be antedated to October 28, 2018.

[7] Since he was outside Canada as of December 4, 2018, the Appellant asked for his claim to be antedated to October 28, 2018, so that he could receive benefits between October 28, 2018, and December 4, 2018.

[8] He explained that his employer had given him an amount owing a few months after he stopped working and, for that reason, he did not have all the information needed to apply for benefits on October 28, 2018.

[9] At the hearing, the Appellant explained that even if he had applied for benefits in the past, he does not know all the procedures for applying for benefits. He reiterated that he had not received an amount owing from his employer and that he had received it in April or at the beginning of May 2019. The Appellant was waiting until he received that amount to apply for benefits. He indicated that there were no other reasons to explain his delay even if he did not always have an Internet connection where he was. The Appellant applied for benefits when he returned to the country and when he received the amount he was waiting for from his employer.

[10] The Commission submits that the Appellant did not do what a reasonable person would have done in the same situation since he did not contact the Commission to learn his rights. It argues that the Appellant had several possible ways of applying for benefits, he was aware of Service Canada, he made no effort to inform himself, and he did not show good cause for his delay in applying for benefits.

[11] I must assess whether the Appellant had good cause, throughout the entire period of the delay, for not applying for benefits on October 28, 2018. The Appellant must show that he did what a reasonable person in his situation would have done to satisfy himself of both his rights and obligations under the Act.<sup>1</sup>

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<sup>1</sup> *Canada (Attorney General) v Kaler*, 2011 FCA 266; *Albrecht*, A-172-85.

[12] First, even if the Appellant did not know that he could be eligible for benefits before having received a final amount from the employer, good faith and ignorance of the Act are not in themselves good cause for the delay in applying for benefits. That could be a valid reason if the Claimant is able to show that he did what a reasonable person would have done in the same circumstances to satisfy himself of both his rights and his obligations.<sup>2</sup>

[13] The Appellant has a cellphone, and he could have contacted the Commission by telephone to inform himself before he left for the Philippines. For the entire period of the delay, he could have informed himself by Internet even if he was outside the country. The Appellant did that in March 2019. Even if he did not receive the information concerning a possible antedate of his claim until March 2019, ignorance of the Act or even good faith is not good cause for a delay in applying for benefits. The Appellant admits that he should have followed up on his file before April 29, 2019.<sup>3</sup>

[14] I am of the opinion that the Appellant has not shown that he did what a reasonable person would have done in the same circumstances. The Appellant should have informed himself as soon as he stopped working at his employment.

[15] I find that the Appellant did not have good cause for the delay in filing his claim between October 28, 2018, and April 29, 2019. I find that the Appellant was responsible for seeking out what his rights and obligations were with the Commission or Service Canada on October 28, 2018, when he stopped working at his employment. Not knowing that he was eligible for benefits, or that his employer had not given him sums owing, is not good cause for the delay in applying for benefits.

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<sup>2</sup> *Canada (Attorney General) v Beaudin*, A-341-04.

<sup>3</sup> GD3-37.

**CONCLUSION**

[16] The appeal is dismissed.

Josée Langlois  
Member, General Division – Employment Insurance Section

HEARD ON:	September 26, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	S. B., Appellant