



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. J. v Canada Employment Insurance Commission*, 2019 SST 1309

Tribunal File Number: GE-19-3205

BETWEEN:

G. J.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Solange Losier

HEARD ON: September 26, 2019

DATE OF DECISION: October 4, 2019

DECISION

[1] The appeal is dismissed because the Claimant has failed to provide a medical certificate confirming his incapacity to work because of illness or injury.

OVERVIEW

[2] The Claimant applied for and received employment insurance sickness benefits in 2015. The Canada Employment Insurance Commission (Commission) determined during an investigation that one of the medical notes submitted relating to his claim for sickness benefits was false. The Claimant told the Commission that the medical note was submitted by an agent that he hired, that he never saw that doctor and it was submitted without his knowledge or consent. On reconsideration, the Commission reviewed several other medical notes submitted by the Claimant, however only two of them support that he was incapable of working for short periods of time for which they removed the disenfranchisement to benefits. However, the Commission the other medical notes did not say that he was incapable of working due to illness or injury. For this reason, the Commission decided that he was not entitled to receive sickness benefits for three specific periods of time in 2015.

PRELIMINARY MATTERS

[3] The Claimant was assisted by an interpreter at the hearing.

[4] The Claimant requested to submit a medical note after the hearing. His request was granted because it was relevant to the issue on whether he qualified for sickness benefits in 2015. The Tribunal received the Claimant's medical note on October 3, 2019 and it was sent to the Commission on the same date.

ISSUE

[5] I must decide whether the Claimant has proven that he was entitled to receive employment insurance benefits.

ANALYSIS

[6] A Claimant is not entitled to be paid benefits for a working day in a benefit period for which the Claimant fails to prove that on that day the Claimant was unable to work because of a prescribed illness, injury or quarantine, and that the claimant would otherwise be available for work.¹

[7] The Commission may at any time require a Claimant to provide additional information about their claim for benefits.² A Claimant who fails to fulfil or comply with a condition or requirement under this section is not entitled to receive benefits for as long as the condition or requirement is not fulfilled or complied with.³

[8] The Claimant has to prove that he was unable to work because of illness or injury from January 4, 2015 to April 23, 2015; May 8, 2015 to May 22, 2015 and June 11, 2015 to July 4, 2015.

Issue 1: Has the Claimant proven that he was entitled to receive employment insurance sickness benefits for the following periods?

January 4, 2015 to April 23, 2015;

May 8, 2015 to May 22, 2015, and

June 11, 2015 to July 4, 2015

[9] No, I find that the Claimant has not proven that he was entitled to receive employment insurance sickness benefits for the periods of January 4, 2015 to April 23, 2015; May 8, 2015 to May 22, 2015, and June 11, 2015 to July 4, 2015.

[10] The Claimant has failed to provide medical evidence to support that he was incapable of working for those periods due to illness or injury and therefore was not entitled to receive employment insurance sickness benefits.

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

² Subsection 50(5) of the *Employment Insurance Act*

³ Subsection 50(1) of the *Employment Insurance Act*

[11] The medical note that triggered the investigation noted that the Claimant was unable to work for 8 weeks from May 8, 2015. This medical note was deemed false because the doctor did not exist and the Claimant had never seen the doctor (GD3-26). The medical note was submitted by an agent without his knowledge or consent. The Commission accepted that the Claimant was not involved in the submission of the false medical note submitted on his claim. They did not impose any monetary or non-monetary penalties.

[12] The Claimant submitted the following additional medical evidence to the Commission to support his case:

a) April 24, 2015 from his family doctor (GD3-44). This note said that the Claimant was unable to work from April 24, 2015 to May 7, 2015.

- The Commission accepted this medical note and removed the disentanglement to benefits for this period.

b) April 26, 2015 medical referral from family to specialist (GD2-10).

- The Commission did not accept this medical note because it was a referral to a specialist.

c) June 24, 2015 report from the specialist indicates that the Claimant functionally restricted and that he is off work (GD2-7 to GD2-9).

- The Commission did not accept this medical report because it was not signed by the doctor and did not identify any duration for the incapacity or illness.

d) September 3, 2015 from his family doctor (GD3-29). This note says that he has back pain, but is able to perform other tasks that do not require heavy lifting.

- This medical note was not accepted by the Commission because it states that he is able to work with some restrictions.

e) November 3, 2015 medical certificate from his family doctor (GD3-30). This medical certificate states that he was unable to work from April 24, 2015 to May 7, 2015 and from May 25, 2015 to June 10, 2015.

- The Commission accepted this medical certificate and removed the disentitlements to benefits for the above periods only.

[13] As noted above, the Commission accepted that the Claimant has proven that he was sick and incapable of work from April 24, 2015 to May 7, 2015 and May 25, 2015 to June 10, 2015 because it was supported medical notes from his family doctor.

[14] The Claimant submitted a medical note after the hearing from his family doctor dated on September 28, 2019 (GD5-2). The note says “I have not seen (name removed) in the dates as requested, and I cannot make an assessment for those dates as mentioned in question”.

[15] I find that the Claimant has failed to prove that he was sick or injured and unable to work for the relevant periods from January 4, 2015 to April 23, 2015; May 8, 2015 to May 22, 2015, and June 11, 2015 to July 4, 2015. None of the medical evidence in the file supports that he was sick or injured and unable to work for these periods. The parties do not dispute that the medical note was false (GD3-26). Since the Claimant has not proven that he was entitled to sickness benefits for the above periods, he is liable to repay the benefits for any period for which he was not entitled to receive.⁴

Issue 2: Is the Claimant entitled to any relief because the false medical note was submitted without his knowledge or consent?

[16] No, I have no authority to exempt him from the requirement to submit a valid medical note proving that he was incapable of working for the above periods. The law requires the Claimant to prove that he was unable to work because of illness. The Commission has the authority to reconsider a claims within 72 months when they are in the opinion that a false or misleading statement or representation has been made in connection with a claim.⁵

⁴ Section 43 of the *Employment Insurance Act*

⁵ Subsection 50(5) of the *Employment Insurance Act*

[17] The Claimant feels victimized by the unknown agent who submitted the false medical note on his behalf without his knowledge or consent. He argues that he pays taxes and should not be responsible for the money that is owing. I reminded the Claimant that the Commission did not impose any penalties for the false medical note.

[18] The Claimant received sickness benefits and has not proven he qualified to receive for the above periods. Since he has not proven he was entitled to receive sickness benefits for the entire period, he is liable for the overpayment.

CONCLUSION

[19] The appeal is dismissed.

Solange Losier

Member, General Division - Employment Insurance Section

HEARD ON:	September 26, 2019
METHOD OF PROCEEDING:	In person
APPEARANCES:	G. J., Appellant