



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *E. M. v Canada Employment Insurance Commission*, 2019 SST 1596

Tribunal File Number: GE-19-3555

BETWEEN:

E. M.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Josée Langlois

HEARD ON : October 31, 2019

DATE OF DECISION : October 31, 2019

DECISION

[1] The appeal is dismissed. I find that the Appellant's application for benefits cannot be considered to have been filed on November 4, 2018.

OVERVIEW

[2] The Appellant applied for benefits on February 2, 2019, even though he stopped working at X on November 3, 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 November 4, 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 thought he would find a job quickly and that he would not need Employment Insurance benefits. He started a job search, but it did not work

out quickly. However, the Appellant did not receive a job offer or participate in a job interview between November 4, 2018, and January 26, 2019.

[7] The Appellant submits that he did what a reasonable person would have done in the same circumstances because he applied for benefits as soon as he realized that his job search efforts did not have the expected results.

[8] At the hearing, the Appellant explained that, because he is an entrepreneur and owns 40% of a company's shares, he did not think he was entitled to benefits. However, because he worked as an employee and did not receive a salary from his company during that time, friends suggested that he apply for benefits. He said that was why he then asked about his rights and filed his claim.

[9] The Commission submits that the Appellant did not do what a reasonable person would have done in same situation because he did not contact the Commission to ask about his rights. It argues that the Appellant assumed that he was not entitled to benefits and that he had not made any efforts to find out about his rights.

[10] I must assess whether the Appellant had good cause, throughout the entire period of the delay, for not applying for benefits on November 4, 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.¹

[11] First, even if the Appellant did not think he would need benefits while he looked for work, and even if he hoped to find a job quickly, he could have informed himself and applied for benefits to plan for this need. Good faith and ignorance of the Act are not in themselves good cause for the delay in applying for benefits. This could be a valid reason if the Appellant 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 obligations.²

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

² *Canada (Attorney General) v Beaudin*, A-341-04.

[12] The Appellant stopped working in his employment on November 3, 2018, and he did not apply for Employment Insurance benefits until February 2, 2019. Even though he experienced some health problems, it was not impossible for him to submit his claim. The Appellant was looking for a job, and he could also have asked about his rights.

[13] I understand the Appellant's situation and the difficulties he experienced as well as his disappointment that he was not entitled to receive benefits between November 4, 2018, and January 26, 2019. Even though he hoped to find a job quickly, I am of the view that the Appellant did not demonstrate that he did what a reasonable person would have done in the same circumstances. The Appellant could have contacted the Commission when he stopped working.

[14] I find that the Appellant did not have good cause for the delay in filing his claim between November 4, 2018, and January 26, 2019. The Appellant was responsible for asking the Commission or Service Canada about his rights and obligations on November 4, 2018, when he stopped working in his employment. Not knowing that he was entitled to benefits if he did not file his claim at that time is not good cause for his delay in filing his claim.

CONCLUSION

[15] The appeal is dismissed.

Josée Langlois
Member, General Division – Employment Insurance Section

HEARD ON:	October 28, 2019
METHOD OF PROCEEDING :	Teleconference
APPEARANCE	E. M., Appellant