



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation : *L. M. v Canada Employment Insurance Commission*, 2019 SST 1426

Tribunal File Number: GE-19-3698

BETWEEN:

**L. M.**

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: November 20, 2019

DATE OF DECISION: November 22, 2019

## **DECISION**

[1] The appeal is dismissed. I find that the Appellant's earnings were properly allocated to her benefit period.

## **OVERVIEW**

[2] The Appellant applied for sickness benefits, and a benefit period was established effective February 8, 2015. On August 28, 2019, the Canada Employment Insurance Commission (Commission) informed the Appellant that it had readjusted the earnings she received between March 29, 2015, and May 31, 2015. The Appellant does not deny having received the amounts allocated by the Commission, but she submits that this situation is causing her hardship and that she did not mean to do anything wrong. I must determine whether the earnings the Appellant received were properly allocated to her benefit period.

## **ISSUE**

[3] Were the earnings the Appellant received properly allocated to her benefit period?

## **ANALYSIS**

### **Were the earnings the Appellant received properly allocated to her benefit period?**

[4] The entire income arising out of any employment is to be taken into account in calculating the amount to be deducted from her benefits.<sup>1</sup>

[5] The Appellant does not dispute having received the amounts reported by the employer between March 29, 2015, and May 31, 2015: \$147 in wages for the weeks beginning on March 29, 2015, April 5, 2015, and May 17, 2015; \$309 for the week beginning on May 24, 2015; and \$515 the week beginning on May 31, 2015. These amounts correspond to the wages paid for holidays as well as to wage-loss insurance payments.

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<sup>1</sup> Section 35(2) of the *Employment Insurance Regulations* (Regulations) and *McLaughlin v Canada* (Attorney General), 2009 FCA 365.

[6] The Appellant explained that she had retired after a work accident and that that is why she was receiving disability insurance payments. As for the holidays, she submits that they were not days worked and that she did not mean to do anything wrong by not reporting these amounts.

[7] The Commission states that the amounts the Appellant received as wages and as compensation for holidays constitute earnings and that these amounts must be allocated to the week in which these amounts were received. The Commission explained that it allocated the amounts received for holidays to the weeks of March 29, 2015, April 5, 2015, and May 17, 2015, and that it allocated the amounts received as wage-loss insurance to the weeks between March 29, 2015, to May 31, 2015.

[8] While I understand the Appellant's disappointment since this situation resulted in an overpayment, the earnings received from her employer must be allocated to her benefit period.

[9] The amounts that constitute earnings must be allocated to the Appellant's benefit periods, and they must be allocated to the week in which they were earned.<sup>2</sup> That is what the file shows: the Commission allocated the amounts the Appellant received as wages to each week they were received.

[10] I find that the amounts the Appellant received as wages were properly allocated by the Commission to the weeks in which they were earned.

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<sup>2</sup> Regulations, s 36(4).

**CONCLUSION**

[11] The appeal is dismissed.

Josée Langlois  
Member, General Division – Employment Insurance Section

HEARD ON:	November 22, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	L. M., Appellant  Yvan Cadoret, support person