



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. G. v Canada Employment Insurance Commission*, 2019 SST 1428

Tribunal File Number: GE-19-3673

BETWEEN:

B. G.

Appellant (Claimant)

and

Canada Employment Insurance Commission

Respondent (Commission)

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Linda Bell

HEARD ON: November 25, 2019

DATE OF DECISION: November 26, 2019

DECISION

[1] The Claimant applied for regular Employment Insurance (EI) benefits. The Commission refused to start his claim on an earlier date. The Claimant appeals to the General Division of the Social Security Tribunal.

[2] I am dismissing the appeal. I have decided that the Claimant did not show good cause for the entire period he delayed in submitting his application (initial claim) for EI benefits. This means his claim cannot start on an earlier date.

OVERVIEW

Facts agreed on

[3] There are some facts I can simply accept because they are set out in the file and the Claimant and the Commission agree on them.

[4] The Claimant submitted his initial claim for EI benefits on June 27, 2019. The Claimant contacted the Commission eleven days later and requested that his claim start on March 31, 2019. This request is called an antedate request.

[5] The Claimant told the Commission that he did not submit his initial claim earlier because he honestly thought he could find work in a short period of time. He said that applying for EI benefits was his last resort.

Issues in this appeal

[6] The Commission determined that the Claimant did not show good cause for the entire period of delay in submitting his initial claim.

[7] The Claimant disagrees. He says he was faithfully looking for work as soon as he was laid off. He says he was also completing on-line orientations so he could be ready to be hired immediately.

What I must decide

[8] The law says that an initial claim for benefits can be antedated if the following criteria are met.

- a) a claimant proves there was good cause for the delay throughout the entire period; and
- b) he qualifies to receive benefits on the earlier day.¹

[9] The period of delay begins on the earlier day requested and ends on the day when the initial claim was made.²

[10] The Claimant must show he had good cause throughout the entire period of delay. This means he needs to prove that he acted as a reasonable and prudent person would have done in similar circumstances. The Claimant must show that he took reasonably prompt steps to determine his entitlement to benefits. This includes taking prompt steps to ensure his rights and obligations are met under the *Act*.³

[11] The law says that the obligation and duty to file a claim promptly are seen as very demanding and strict. This is why the “good cause for delay” exception is cautiously applied.⁴

¹ Section 10(4) of the *Employment Insurance Act (Act)*

² Section 10(4) of the *Employment Insurance Act (Act)*

³ *Canada (Attorney General) v Kaler*, 2011 FCA 266

⁴ *Canada (Attorney General) v Brace*, 2008 FCA 118

What is the period of delay?

[12] During their July 8, 2019, telephone conversation, the Claimant requested that the Commission start his claim on March 31, 2019. The Claimant submitted his initial claim on June 27, 2019. This means the period of delay is from March 31, 2019, to June 27, 2019.

Has the Claimant shown good cause for the delay?

[13] No. The Claimant told the Commission that he was busy submitting job applications. He said this is why he did not attempt to contact Service Canada or apply for benefits earlier. The Commission determined that a reasonable person would have asked about claiming benefits sooner. They would not have delayed because they thought they would be getting a job. It is admirable that the Claimant wanted to work. But I agree that he should have applied for benefits earlier while he continued his job search.

[14] A prudent and reasonable person would have contacted the Commission sooner. The Claimant told me that he did not visit the Service Canada office or website prior to June 27, 2019. He said that the last time he collected EI benefits was when he was approximately 20 years old. He argued that he does not believe in collecting EI benefits unless it is a last resort. He says that nothing stopped him from applying for benefits sooner. He just wanted to work and did not expect to be unemployed for five months.

[15] I find the Claimant has not demonstrated that he acted as a reasonable or prudent person to determine his rights and obligations. He did not take reasonably prompt steps to determine his entitlement to benefits when he lost his employment in March 2019. He readily admits that he made a choice to delay while he continued to look for work. So, it cannot be said that he did what a reasonable and prudent person

would have done in the same circumstances. This is because he waited more than 12 weeks before applying for EI benefits.

[16] Good cause for delay is not the same as having a good reason or a justification for the delay. The Claimant admits that he had knowledge of EI because he collected benefits in the past. He confirms that there was nothing that prevented him from contacting the Commission earlier. So he has not proven that there were exceptional circumstances preventing him from determining his rights and obligations.

[17] The Claimant has not proven that he acted like a reasonable and prudent person placed in the same circumstances. So he has failed to show he had good cause during the entire period of delay in making his initial claim.

Qualifying for benefits on the earlier day

[18] The law requires that the Claimant meet both factors in order to have his claim antedated. As stated above, the Claimant does not meet the first factor so I will not consider whether the Claimant qualified for benefits on the earlier date.

[19] For these reasons, I dismiss the appeal. The Claimant has not shown good cause for the entire period of the delay. So this claim cannot be antedated to March 31, 2019.

Issues in the Tribunal Process

The Claimant's representative did not attend the hearing

[20] The Claimant appeared at the hearing alone. He said his representative would not be attending the hearing. I asked if he wanted to adjourn the hearing to a date when his representative would be available. He said no, because he is aware that the answer to his appeal will be, yes or no.

[21] I told him that his representative sent an email stating she was on leave for a month. I asked if he wanted to delay the hearing until she returned to work. He said no. I then asked him if he wanted time to get a new representative. He said no, he wanted to proceed with the hearing as scheduled without a representative.

Linda Bell

Member, General Division - Employment Insurance Section

HEARD ON:	November 25, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	B. G., Appellant (Claimant)