



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. E. v Canada Employment Insurance Commission*, 2020 SST 347

Tribunal File Number: GE-20-694

BETWEEN:

**A. E.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

---

**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

---

DECISION BY: Lilian Klein

HEARD ON: March 18, 2020

DATE OF DECISION: April 7, 2020

## **DECISION**

[1] The appeal is dismissed. The Claimant has not shown that he had good cause for his delay in making his renewal claim for employment insurance (EI) benefits. This means that his claim cannot be backdated to an earlier date.

## **OVERVIEW**

[2] The Claimant was laid off from his job on September 13, 2019. He made a renewal claim for benefits on December 5, 2019, and the Commission established the claim starting on December 1, 2019. He is now asking that his renewal claim be treated as if he had made it earlier, on September 15, 2019. The Commission has already refused this request.

[3] I must decide whether the Claimant proved he had good cause when he delayed making his renewal claim. The Commission says he does not have good cause because a reasonable person in his situation would have enquired about his benefits when his work ended.

[4] The Claimant disagrees. He says his employer did not tell him he was laid off until November 7, 2019. He spent the next month trying to persuade the employer to rehire him.

## **POST-HEARING DOCUMENTS**

[5] After the hearing, the Claimant submitted his work schedule for the two-week period starting on September 4, 2019. I accepted this evidence as relevant to his appeal since it showed his work schedule right before he was laid off.

[6] The Claimant also submitted a copy of the letter his lawyer sent to the employer requesting pay in lieu of notice and damages. I accepted the letter as relevant to the appeal only where it confirms the sequence of events from September 13, 2019, to December 5, 2019.

[7] It is not my role to consider whether the employer dismissed the Claimant unfairly when it laid him off. I can only decide whether he showed good cause throughout the period of his delay in making his renewal claim for benefits.

## ISSUE

[8] I must decide whether the Claimant's renewal application can be backdated to an earlier date.

## ANALYSIS

[9] Claimants who miss their claim deadlines are not entitled to be paid benefits since they have failed to meet all the conditions to receive them.<sup>1</sup> However, claimants can ask to have their claim backdated to an earlier day if they show good cause for their delay.<sup>2</sup>

[10] The Claimant has to prove it is more likely than not that he had good cause for his delay in filing his claim.<sup>3</sup> To show good cause, he has to prove he acted like a reasonable and prudent person would have done in similar circumstances.<sup>4</sup> He has to show this for the entire period of the delay.<sup>5</sup>

[11] Where claimants have not filed any claims for four or more consecutive weeks, they must make their claim within seven days of the week for which they are claiming benefits.<sup>6</sup> This is the timeframe for renewal claims.

[12] The Claimant wanted his renewal claim to start the week of September 15, 2019. For that start date, he needed to make his claim by September 29, 2019, which is seven days after the end of the week in which he wanted his benefits to start. He filed his renewal claim on December 5, 2019. The period of his delay is therefore from September 29, 2019, to December 5, 2019.

[13] The Claimant has to show that he took reasonably prompt steps to understand his entitlement to benefits and his obligations under the law.<sup>7</sup> If he failed to take these steps, he must show that there were exceptional circumstances to explain why he did not do so.<sup>8</sup>

---

<sup>1</sup> S 50(1) of the *Employment Insurance Act* (EI Act).

<sup>2</sup> S 10(5) of the EI Act; *Attorney General of Canada v Burke*, 2012 FCA 139.

<sup>3</sup> The Claimant has to prove this on a balance of probabilities, which means it is more likely than not.

<sup>4</sup> *Burke*, see above.

<sup>5</sup> *Burke*, see above.

<sup>6</sup> S 26(2) of the *Employment Insurance Regulations*.

<sup>7</sup> *Attorney General of Canada v Somwaru*, 2010 FCA 336; *Attorney General of Canada v Kaler*, 2011 FCA 266.

<sup>8</sup> *Somwaru, Kaler*, see above.

[14] The Claimant says he had good cause for the delay because his employer never told him he was laid-off. He says they had an unresolved scheduling conflict since the employer wanted him to change to a night shift and he could not do that because of childcare issues. The company had accommodated him for over a year but was no longer prepared to do so. His relations with the employer deteriorated after that. Since work was slow and he could not work the night shift, the employer told him to take a two-week unpaid vacation.

[15] The Claimant says he was expecting his employer to call him back to work. He contacted the employer every week to find out when he would be put back on the work schedule. His brother, who was the printing manager, kept telling him that the employer would rehire him. Neither he nor his brother knew that the employer had already issued an ROE on October 11, 2019, documenting a lay-off as of September 13, 2019.

[16] The Claimant says the plant manager only told him he was laid off on November 7, 2019. The employer gave him a paper copy of his Record of Employment through his brother a week later. He spent the next month trying to persuade his employer to rehire him. He wanted to go back to work rather than having to rely on EI benefits.

[17] The Claimant says he looked at the Commission's website. He interpreted what he saw to mean he had 30 days to apply from the date he found out that he lost his job. He did not realize that he had to apply as soon as possible after his last day at work. He says he panicked when he found out that he was laid off.

[18] The Commission says the Claimant did not show good cause for the delay because a reasonable person in his situation would have enquired about his benefits after the two weeks of "vacation" were over and the employer did not schedule him for work.

[19] I find that the Claimant did not prove he had good cause for his delay since he should have realized that a lay-off was possible. His employer did not schedule him for any shifts after his last day of work. He knew work was slow. He also knew that he had an unresolved scheduling conflict with his employer.

[20] Given these signs that his job was over, I find that a reasonable and prudent person in his situation would have taken steps to find out what he must do to protect his benefits.

[21] I accept that initially the Claimant thought the employer was going to call him back to work; he said the employer had reassured him on this point. I accept his sworn testimony that the plant manager only called him on November 7, 2019. However, he had to show good cause for the entire period of his delay in applying for benefits. He knew about the lay-off at least by November 7, 2019, but he still waited another month before applying for benefits.

[22] I give significant weight to the Claimant's testimony that he preferred to avoid requesting benefits since he wanted to work and take care of his family by himself. However, this preference does not show good cause.

[23] I understand that the Claimant was upset about the lay-off, which would be the reaction of most claimants in his situation. However, he did not show that there were exceptional circumstances preventing him from applying for benefits during the whole period of his delay.

[24] The Claimant says he did not know he had to apply when he stopped working. However, ignorance of the law does not show good cause.<sup>9</sup> There are many ways to access information about one's benefits by phoning the Commission, visiting one of its Service Canada centres or conducting a basic online search.

[25] The Claimant says he checked the Commission's website but misunderstood what he read there about the deadline for claiming benefits. However, the website only gives general information. It does not take the place of a conversation with the Commission since everyone's situation is different.<sup>10</sup>

[26] The Claimant says a Service Canada agent told him over the phone that he should not apply for benefits since he had not yet received the sickness benefits from his initial claim in January 2019. He received payment in early December 2019, and then he applied for regular benefits.

[27] I give low weight to this part of the Claimant's testimony since there is no record of that phone conversation. He never mentioned it to the Commission at any point in the application or reconsideration process. He did not raise it with me either until towards the end of the hearing. I

---

<sup>9</sup> *Pirotte v Unemployment Insurance Commission et al.* A-108-76.

<sup>10</sup> *Mauchel v Attorney of Canada*, 2012 FCA 202.

find it more likely than not that he would have raised this argument much earlier if the conversation had taken place as he described.

[28] The Claimant argued financial hardship and I sympathize with his situation. However, I cannot interpret the legislation in any other way than its plain meaning.<sup>11</sup> The EI Act is an insurance plan. As with other insurance plans, claimants must meet the conditions and deadlines of the plan to obtain benefits.<sup>12</sup> Unfortunately, the requirements of the law cannot be set aside based on financial circumstances.<sup>13</sup>

## CONCLUSION

[29] The appeal is dismissed.

Lilian Klein

Member, General Division - Employment Insurance Section

HEARD ON:	March 18, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. E., Appellant

---

<sup>11</sup> *Attorney General of Canada v Knee*, 2011 FCA 301.

<sup>12</sup> *Pannu v Attorney General of Canada*, 2004 FCA 90.

<sup>13</sup> *Attorney General of Canada v Lévesque*, 2001 FCA 304.