Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

Citation: *G. T. v Canada Employment Insurance Commission*, 2020 SST 606

Tribunal File Number: AD-20-586

BETWEEN:

G. T.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Jude Samson

DATE OF DECISION: July 13, 2020

Canada

DECISION AND REASONS

DECISION

[1] I am dismissing the Claimant's appeal. She is not entitled to Employment Insurance (EI) benefits based on her January 2017 application.

OVERVIEW

[2] The Claimant, G. T., stopped working in October 2015 and applied for EI regular benefits. The Commission approved her application and decided that she was entitled to the maximum amount of benefits available in her region: 38 weeks. However, changes to the *Employment Insurance Act* (EI Act) meant that the Claimant later became entitled to an extra 25 weeks of benefits.[1] The parties refer to these changes to the EI Act as Bill C-15.

[3] In January 2017, the Commission stopped paying benefits to the Claimant because she had received the full 63 weeks of regular benefits to which she was entitled. So, the Claimant filed a second application for EI benefits. This time the Commission denied her application. It did so because the Claimant had not worked since October 2015. In other words, she had none of the hours of insurable employment needed to establish a new benefit period and to qualify for EI benefits once again.

[4] The Claimant appealed the Commission's decision to the Tribunal's General Division, but it summarily dismissed her appeal. The Claimant is now appealing the General Division decision to the Tribunal's Appeal Division.

[5] In short, the Claimant argued that there was confusion between her first and second applications, and that she thought she was applying for additional benefits as part of her first application. She also argued that the Commission might not have fully implemented Bill C-15. Specifically, she might be entitled to additional weeks of EI regular benefits because she has worked non-stop for many years.

---

[1] These changes are found in Part 4, Division 12 of the *Budget Implementation Act, 2016, No. 1*.

[6] Respectfully, I cannot accept the Claimant's arguments. As a result, I am dismissing her appeal.

ISSUES

[7] In reaching this decision, I focused on the following questions:

a) Can I consider Claimant's entitlement to additional EI benefits as part of her first application?

b) Is the Claimant entitled to benefits based on her second application?

ANALYSIS

[8] I must follow the law and procedures set out in the *Department of Employment and Social Development Act* (DESD Act). As a result, I can intervene in this case only if the General Division committed a relevant error.[2]

I cannot consider the Claimant's entitlement to EI benefits as part of her first application.

[9] The Claimant received 63 weeks of EI benefits as part of her first application. Once the Commission stopped paying benefits to the Claimant, she submitted a second application. The Commission denied the second application because the Claimant needed 525 hours of insurable employment in the previous year to qualify for benefits.[3] Instead, she had zero.

[10] The Claimant's son represented her at the Appeal Division hearing. He started by arguing that the General Division had made a mistake because the Claimant was not challenging the Commission's denial of her second application for benefits.[4] Instead, she was challenging the Commission's decision that her first application for benefits was limited to 63 weeks.

---

[2] Section 58(1) of the DESD Act set outs the relevant errors (or grounds of appeal) that I can consider.
[3] The Commission's initial decision is on page GD3-15.
[4] The Claimant's reconsideration request starts on page GD3-16. The Commission's reconsideration decision starts on page GD3-20.

[11] The Claimant's representative asked that I consider both issues. Alternatively, he asked me to adjourn the hearing and to put this file on hold while the Claimant pursued her appeal rights as part of her first application for EI benefits. I refused to do so.

[12] It was reasonable for the Commission to have reconsidered its refusal of the Claimant's second application for benefits. Whether the Commission should have also reconsidered a decision as part of the Claimant's first application is an issue between the Claimant and the Commission.[5]

[13] The only reconsideration decision that the Claimant put before the Tribunal concerned her inability to establish a benefit period and qualify for benefits in January 2017. That reconsideration decision, which the Claimant attached to the notice of appeal that she filed at the General Division level, defined the scope of the Tribunal's powers.[6] It also affected which documents the Commission provided to the Tribunal.[7]

[14] The documents in this appeal make clear that the issue in dispute concerns the Commission's denial of the Claimant's second application for benefits. The issue is not the maximum number of weeks to which the Claimant was entitled to receive benefits as part of her first application. If the Claimant needed clarification on this point, she had time to do so before the Appeal Division hearing.

[15] Given the reconsideration decision that the Claimant had put in front of the General Division, the only issue it could decide was whether the Claimant qualified for benefits based on her January 2017 application.

[16] In other words, the General Division made no mistake by focusing on the Claimant's second application for EI benefits, and by ignoring the first.

---

[5] The Claimant now seems to be trying to clarify that she intended for her reconsideration request to include both applications: see AD5.

[6] Section 113 of the EI Act limits the Tribunal's powers to cases where the Commission has issued a reconsideration decision.

[7] See the Commission's reconsideration file, labelled GD3.

[17] I also refused to adjourn the hearing of this appeal and to put the appeal on hold while the Claimant pursued other appeal options as part of her first application for EI benefits. I reached that decision because:

a) Although I appreciate that the issues the Claimant is advancing all concern her entitlement to EI benefits, the issues arising from her first and second applications are quite different. The Claimant qualified for EI benefits based on her first application, but says she might be entitled to additional weeks of benefits. Following her second application, however, the issue is whether the Claimant qualifies for benefits at all.

b) For the reasons described below, this appeal is doomed to fail. There is little to be gained, therefore, by delaying the appeal any further.

[18] For all these reasons, I cannot consider whether the Claimant is entitled to additional weeks of benefits as part of her first application, and I will not put this appeal on hold while she tries to resolve that issue.

The Claimant is not entitled to benefits based on her second application

[19] The Claimant's first application for EI benefits provides a useful illustration of how benefits are calculated. The Commission describes the processing of the Claimant's first application for EI benefits as follows:[8]

a) The Claimant's first application was effective October 18, 2015. To determine whether she was eligible for benefits, the Commission considered the insurable hours of employment that the Claimant had earned during her qualifying period (the previous year, from October 14, 2014, to October 17, 2015).

b) Since the Claimant had earned over 1,820 hours of insurable employment in her qualifying period, she was entitled to the maximum number of weeks available under Schedule I of the EI Act. Based on the regional rate of unemployment in the area

---

[8] See documents GD4 and GD7.

where the Claimant lived, the Commission awarded her 38 weeks of EI regular benefits.

c) However, temporary changes to the EI Act also benefited the Claimant. Bill C-15 allowed certain EI benefit recipients to receive an extra 5 to 25 weeks of benefits. Again, the Claimant received the maximum: 25 weeks.

[20] When the Claimant submitted her second application for EI benefits in January 2017, the Commission again looked to see how many hours of insurable employment she had earned in her qualifying period (the previous year).[9] But the Claimant had not worked since 2015, so she had zero hours of insurable employment in her qualifying period. As a result, the Claimant did not qualify for additional benefits, and the Commission denied her second application.

[21] At the hearing before me, the Claimant's representative argued that Bill C-15 might have entitled his mother to additional weeks of benefits. In particular, he stressed how his mother had worked for many years before 2015. However, the Claimant's representative could not point me to any specific parts of Bill C-15 that support his arguments.

[22] I have reviewed Bill C-15 and was unable to find how it could help the Claimant in the circumstances of her case. Bill C-15 did not eliminate the need to earn hours of insurable employment. Nor did it extend a person's qualifying period to include their entire career, regardless of any previous claims for EI benefits. As a result, the General Division made no error in the way that it applied Bill C-15 to the Claimant's second application for EI benefits.

---

[9] See the requirements under sections 7 and 8 of the EI Act.

CONCLUSION

[23] The General Division did not commit any of the errors that the Claimant alleges. As a result, I am dismissing her appeal.

Jude Samson
Member, Appeal Division

HEARD ON:	June 11, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. T., Representative for the Appellant