



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *BS v Canada Employment Insurance Commission*, 2020 SST 875

Tribunal File Number: GE-20-755

BETWEEN:

B. S.

Appellant/Claimant

and

Canada Employment Insurance Commission

Respondent/Commission

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Leanne Bourassa

HEARD ON: August 31, 2020

DATE OF DECISION: September 4, 2020

DECISION

[1] The appeal is allowed. The Claimant has shown that she was eligible for the family supplement for the period of February 18, 2018 to May 26, 2018.

OVERVIEW

[2] The Claimant applied for employment insurance (EI) sickness benefits. The Commission paid benefits to her from February 18, 2018 to May 26, 2018. Based on information that the Canada Revenue Agency (CRA) provided to the Commission, the Commission also paid a family supplement to the Claimant. The CRA later advised the Commission that the Claimant's entitlement to Canada Child Benefits had been reviewed, which resulted in the Commission understanding that the family supplement should not have been paid to the Claimant. They asked the Claimant to repay the amounts she had received as family supplement.

[3] The Claimant says that she was entitled to the family supplement and that the Commission has not explained what information the CRA provided that would have changed this. There was no change in her family circumstances that should have affected her entitlement to the family supplement. She asks that the Notice of Debt sent to her on November 9, 2019 be dismissed.

PRELIMINARY MATTERS

[4] The Claimant had originally requested that her appeal be heard by written question and answers. Given the complexities of the matter, the original Tribunal Member assigned to hear this case invited the Claimant to participate in a pre-hearing teleconference to clarify the role of the Tribunal and to assess the Claimant's need to proceed in writing. Following this teleconference, the Claimant was invited to seek out information from the CRA and another pre-hearing teleconference was scheduled.

[5] When this appeal was reassigned to me, I chose to go forward with the scheduled pre-hearing teleconference. Following this teleconference, I made a request for investigation and report from the Commission and agreed to accept further documents from the Claimant. After I received documentation and argumentation from both parties, I found there was sufficient

evidence to proceed with a hearing and scheduled a hearing via teleconference on August 31, 2020.

[6] During this teleconference, the Claimant asserted that she did not understand why we were proceeding with a hearing when her arguments had already been made in writing. While she did answer some final questions that I had about the latest documents she had submitted, I understand that the Claimant wanted to rely primarily on the written submissions made by herself and her accountant on her behalf. As such, my analysis in this case has been based on all of the written documentation supplied by the Claimant, by her accountant and the Commission, as well as clarifications provided by the Claimant during the hearing. In the following analysis, I will only refer to the evidence and statements that I find are relevant to the decision.

ISSUE

[7] Is the Claimant entitled to the family supplement for the period of February 18, 2018 to May 26 2018?

ANALYSIS

[8] Employment insurance benefits can be increased for certain claimants. One such increase, called the family supplement, is available to families whose incomes are below a specific amount.

[9] To be eligible for this family supplement, claimants must meet certain criteria. Those criteria are:

- a) One or more children under 18 years of age;
- b) A combined family net income below \$25,921; and
- c) The claimant or their spouse received a Canada Child Benefit.¹

[10] The family supplement is available if the CRA has determined that the Claimant was entitled to the Canada Child Benefit (CCB).² The CRA has the sole discretion to determine

¹ Section 16 of the *Employment Insurance Act* and Section 34 of the *Employment Insurance Regulations*.

² CUB 70052

eligibility for the CCB. I can only find that the Claimant's weekly benefit rate should be adjusted by the adding a family supplement if the CRA has confirmed the Claimant's eligibility.³

[11] The Claimant and her husband have three (3) children under the age of 18. The Commission does not dispute this.

[12] The evidence shows that the Claimant made her application for EI sickness benefits in April 2018 and her claim was made effective as of February 16, 2018. She was paid benefits for the weeks of February 16, 2018 to May 26, 2018.

[13] The Commission submits that the eligibility for the family supplement is not determined by them, but they are advised of a Claimant's eligibility through a link with CCB and family net income information held by the CRA. Information is exchanged electronically by a two-way data exchange between the CRA and the Commission.

[14] The Commission submits that on September 2 and September 9, 2018, they were informed through the system that the Claimant was in receipt of the CCB and that her family net income was equal to or lower than \$25,921. Following these updates, on September 10, 2018, the Commission added the family supplement to the Claimant's claim for the period of February 18, 2018 to May 26, 2018 and paid her an additional \$963.

[15] From the Commission's evidence I see that on November 3, 2019 the CRA advised the Commission that there was an update to the information with respect to the Claimant's entitlement to CCB.⁴

[16] On November 4, 2019, the Commission's records were changed to reflect that the Claimant was no longer entitled to the CCB.⁵

³ CUB 79050

⁴ This is seen at document GD3-26.

⁵ This is seen at document GD3-28.

[17] On November 9, 2019, the Commission issued a Notice of Debt to the Claimant, claiming the repayment of the amount of \$963 because her family income supplement information from the CRA had been changed.⁶

[18] The Claimant argues that nothing in her family's income had changed in November 2019 that would have resulted in her no longer being eligible for the CCB or in her family's net income being more than \$25,921.

[19] From the evidence supplied by the Claimant's accountant, I notice that the CRA advised the Claimant on August 20, 2018 that for the Base year 2016, payment period of July 2017 to June 2018, she was entitled to \$11,857.36 in Child Tax Benefits. Her 2016 Family Net Income was noted as being \$52,856.00.⁷

[20] The CRA also advised the Claimant on August 20, 2018 that for the Base year 2017, payment period of July 2018 to June 2019, she was entitled to \$16,444.00 in Child Tax Benefits. Her 2017 Family Net Income was noted as \$12,001.00.⁸

[21] From the documents supplied by the Claimant's accountant, I see that the CRA wrote to the Claimant 3 times in 2019. On July 19, 2019, they advised the Claimant that for the Base year 2018, payment period July 2019 to June 2020, they could not calculate her entitlement to CCB because they did not have her spouse's world income.⁹ On August 20, 2019, the CRA wrote to the Claimant again to say they had not received any information further to their last letter and she would need to repay \$1,400.49.¹⁰ On October 18, 2019, the Claimant was sent a letter by CRA that says that for the Base year 2017, payment period July 2018 to June 2019, they could not determine her entitlement to CCB without her spouse's 2017 tax return. The Claimant was advised she owed \$17,843.49 to the CRA.¹¹

⁶ This is seen at GD3-15.

⁷ This information, provided to the Tribunal on August 20, 2020 is found at GD21-14 to 16.

⁸ This is seen in documents GD21-17 to 20.

⁹ This is seen on document GD21-23.

¹⁰ This is seen in documents GD21-24 to 26.

¹¹ This is seen in documents GD21-26 to 29.

[22] There are no further exchanges between the CRA and the Claimant in 2019 provided in evidence.

[23] From the information supplied by the Claimant, I see that the Claimant's husband's 2017 and 2018 tax returns were only assessed on December 16, 2019.¹² By this time, the Commission had already sent the Claimant the Notice of Debt in dispute.

[24] The Claimant asked the Commission to reconsider their decision on January 3, 2020. The Commission proceeded with the reconsideration and after speaking with the Claimant, on February 18, 2020, advised the Claimant that they would not be changing their decision to issue the Notice of Debt dated November 9, 2019.

[25] On August 20, 2020, the Claimant's accountant provided the Tribunal with two further letters from the CRA dated January 20, 2020. The first letter confirms that for the 2017 base year, payment period July 2018 to June 2019, the Claimant was entitled to the CCB and the 2017 Family Net Income was \$12,001.00.¹³ The second letter confirms that for the 2018 base year, payment period July 2019 to June 2020, the Claimant was entitled to the CCB and the Family Net Income was \$8,851.00.¹⁴

[26] It does not appear that as of March 1, 2020 when the Claimant appealed to the Tribunal, that CRA had updated this information with the Commission. When the Commission retrieved information to supply to the Tribunal on March 5, 2020, the information from the CRA still said that the Claimant was not entitled to the family supplement.

[27] The CRA notices sent to the Claimant in January 2020 show that the Claimant was entitled to the CCB for the period of July 2018 to June 2019 and July 2019 to June 2020. They also confirm that the Claimant's Family Net income for 2017 and 2018 were below the \$25,921 threshold.

¹² This is shown in a print-out of B. S.'s CRA file at GD15-4.

¹³ This is seen in documents GD21-30 to 32.

¹⁴ This is seen in documents GD21-33 to 36.

[28] The CRA notice sent to the Claimant on August 20, 2018 shows that the Claimant was entitled to CCB for the period of July 2017 to June 2018. There is no evidence showing that this has been adjusted or modified.

[29] So, from this evidence I see that the Claimant had 3 children under the age of 18, was entitled to the CCB for the period of July 2017 to June 2018 and had a family net income below \$25,921 for the year 2018. I find that the Claimant has shown that she did meet the criteria to receive the family supplement.

[30] Although this information did not appear to be available to the Commission when they reconsidered their decision to issue a Notice of Debt, it is now available and should be taken into consideration, even if the CRA has not updated the information it had supplied to the Commission.

[31] It is set law that the CRA has the sole discretion to determine a claimant's eligibility and entitlement to the CCB. However, given the evidence before me, I find that the CRA has provided information to the Claimant that confirms that she met both conditions under section 16 of the EI Act and section 34 of the EI regulations with respect to the family supplement. Unfortunately, the Commission does not seem to have been provided with this updated information. Now that this information is available, I find that it does demonstrate that the Claimant does meet the criteria to receive the family supplement for the period of February 18, 2018 to May 26, 2018.

CONCLUSION

[32] The appeal is allowed.

Leanne Bourassa

Member, General Division - Employment Insurance Section

HEARD ON:	August 31, 2020
METHOD OF PROCEEDING:	Teleconference

APPEARANCES:	B. S., Appellant/Claimant
--------------	---------------------------