



Citation: *EB v Canada Employment Insurance Commission*, 2021 SST 599

Social Security Tribunal of Canada Appeal Division

Decision

Appellant:	E. B.
Respondent:	Canada Employment Insurance Commission
<hr/>	
Decision under appeal:	General Division decision dated June 21, 2021 (GE-21-809)
<hr/>	
Tribunal member:	Pierre Lafontaine
Type of hearing:	Teleconference
Hearing date:	October 13, 2021
Hearing participants:	Appellant
Decision date:	October 19, 2021
File number:	AD-21-239

Decision

[1] The appeal is dismissed.

Overview

[2] The Respondent, the Canada Employment Insurance Commission (Commission), decided that the Claimant was disentitled from receiving regular EI benefits as of February 8, 2021, because she was not available for work. After an unsuccessful request for reconsideration, the Claimant appealed the Commission's decision to the General Division.

[3] The General Division determined that the Claimant wanted to take on more work but that she made no efforts to look for additional work. It determined that the Claimant set personal conditions that unduly limited her chances of taking on more work because she limited her availability to her current employer. The General Division concluded that the Claimant did not show that she was available for work as of February 8, 2021, within the meaning of the law.

[4] The Appeal Division granted the Claimant leave to appeal of the General Division's decision. The Claimant submits that she did not want to apply for EI regular benefits since she had a job. She puts forward that she wanted to apply for the Canada Recovery Benefit. However, the agent at the employment insurance office did not help her to fill out the right application.

[5] I must decide whether the General Division rendered a decision on the wrong issue.

[6] I am dismissing the Claimant's appeal.

Issue

[7] Did the General Division decide the wrong issue when it rendered a decision on the Claimant's availability for work?

Analysis

Appeal Division's mandate

[8] The Federal Court of Appeal has determined that when the Appeal Division hears appeals pursuant to section 58(1) of the *Department of Employment and Social Development Act*, the mandate of the Appeal Division is conferred to it by sections 55 to 69 of that Act.¹

[9] The Appeal Division acts as an administrative appeal tribunal for decisions rendered by the General Division and does not exercise a superintending power similar to that exercised by a higher court.²

[10] Therefore, unless the General Division failed to observe a principle of natural justice, erred in law, based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it, I must dismiss the appeal.

Did the General Division decide the wrong issue when it rendered a decision on the Claimant's availability for work?

[11] The General Division determined that the Claimant wanted to take on more work but that she made no efforts to look for additional work. It determined that the Claimant set personal conditions that unduly limited her chances of taking on more work because she limited her availability to her current employer. The General Division concluded that the Claimant did not show that she was available for work as of February 8, 2021, within the meaning of the law.

[12] I note that the member who allowed leave to appeal found that the General Division might have failed to exercise its jurisdiction by not considering whether the Commission properly denied the Claimant's request for an antedate.

¹ *Canada (Attorney general) v Jean*, 2015 FCA 242; *Maunder v Canada (Attorney general)*, 2015 FCA 274.

² *Idem*.

[13] During the appeal hearing, the Claimant informed me that her antedate request was not an issue. She reiterated that she did not want to apply for regular EI benefits. She submitted that she really wanted to apply for the Canada Recovery Benefit, but received no help from an agent at the employment insurance office. She therefore applied for the wrong benefits.

[14] The General Division derives its jurisdiction from the law.³ In this case, it was limited to examining the issue that arose from the Commission's letter dated April 15, 2021, namely the decision concerning her availability for work remaining unchanged.⁴

[15] The Claimant may have wanted the General Division to consider her eligibility for some other benefit like the Canada Recovery Benefit, but the General Division did not have the jurisdiction to consider that issue.

[16] Unfortunately, for the Claimant, I do not have the power to correct or change her application so that she receive the benefits she really wanted.

[17] I have no choice but to dismiss the Claimant's appeal.

Conclusion

[18] The appeal is dismissed.

Pierre Lafontaine
Member, Appeal Division

³ Sections 112 and 113 of the *Employment Insurance Act*.

⁴ See GD3-21.