



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *JL v Canada Employment Insurance Commission*, 2021 SST 698

Tribunal File Number: GE-21-935

BETWEEN:

J. L.

Appellant / Claimant

and

Canada Employment Insurance Commission

Respondent / Commission

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Raelene R. Thomas

DATE OF DECISION: July 8, 2021

REASONS AND DECISION

OVERVIEW

[1] J. L. is the Appellant for this appeal. I will call him the Claimant.

[2] The Respondent is the Canada Employment Insurance Commission. I will call it the Commission.

[3] The Claimant applied for employment insurance benefits December 30, 2017. He then worked while he was receiving Employment Insurance (EI) benefits. His earnings were either not reported or reported incorrectly. The Commission found out about the Claimant's earnings and decided that he was not eligible to receive EI benefits in certain weeks and that he knowingly made false representations on his EI report claims. The Commission also decided that while he was receiving EI benefits, the Claimant lost a job due to his own misconduct and it could not pay him EI benefits from April 21, 2018, onward because of that. This meant the Claimant had to pay back \$13,376 in EI benefits that he was not eligible to receive. The Commission also imposed a \$5,000 penalty and a notice of a very serious violation on the Claimant.¹

[4] The Claimant asked the Commission to reconsider these decisions on March 12, 2019. The Commission did reconsider, but maintained its original decisions. On May 14, 2019, the Commission telephoned the Claimant and told him it would not be changing its decisions. It also sent him a letter with the reconsideration decision on May 14, 2019.²

[5] The Claimant appealed the Commission's reconsideration decision to the Social Security Tribunal on May 25, 2021.

[6] The Claimant has explained that he has multiple medical issues. He has tried to resolve his debt with the Commission and has contacted the Canada Revenue Agency about it as well.

¹ See the Commission's letter to the Claimant dated February 15, 2019, at pages GD3A-56 to GD3A-58.

² Reconsideration decisions are made in accordance with section 112 of the *Employment Insurance Act*.

[7] The law says the Claimant had 30 days from the Commission's reconsideration decision to file an appeal to the Social Security Tribunal.³ This meant he had until June 24, 2019 to file an appeal. The Claimant filed his appeal on June 3, 2021. This evidence tells me that more than one year passed since the Commission communicated the reconsideration decision to the Claimant.

[8] The law says that in no case may an appeal be brought to the Social Security Tribunal more than one year after the reconsideration decision was communicated to the Claimant.⁴

[9] Since I have found the Commission's reconsideration decision was communicated to the Claimant on May 14, 2019, and the Claimant filed a Notice of Appeal with the Tribunal more than a year later, on June 3, 2021, his appeal must be dismissed.

[10] I am sympathetic to the Claimant's circumstances but, as tempting as it may be in such cases (and this may well be one), I am not permitted to re-write legislation or to interpret it in a manner that is contrary to its plain meaning.⁵ I must follow the law and render decisions based on the relevant legislation and precedents set by the courts.

[11] Nothing in my decision prevents the Claimant from writing to the Commission directly to ask that the debt be reduced or written off. If he is not satisfied with the Commission's decision he can appeal to the Federal Court within the time limits for that appeal.

CONCLUSION

[12] I find the appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

Raelene R. Thomas
Member, General Division - Employment Insurance Section

³ *Department of Employment and Social Development Act*, section 52(1)(a). The Commission's May 14, 2019, letter also told the Claimant about this requirement.

⁴ *Department of Employment and Social Development Act*, section 52(2)

⁵ *Canada (Attorney General) v. Kneé*, 2011 FCA 301. This is how I refer to the court cases containing principles the law requires me to apply to the circumstances of this appeal.