



[TRANSLATION]

Citation : *IS v Canada Employment Insurance Commission*, 2022 SST 203

Social Security Tribunal of Canada Appeal Division

Decision

Applicant: I. S.

Respondent: Canada Employment Insurance Commission
Representative: G.-L. Bélanger

Decision under appeal: General Division decision dated
January 18, 2022 (GE-21-2138)

Tribunal member: Jude Samson

Decision date: March 24, 2022
File number: AD-22-123

Decision

[1] I am giving permission (or leave) to appeal and allowing the appeal. The Canada Employment Insurance Commission (Commission) will recalculate the debt of the Claimant, I. S., based on the decision below.

Overview

[2] The Commission paid the Claimant Employment Insurance (EI) regular benefits from September 2020. However, the Commission later decided that the Claimant had left a job without good cause. So, it imposed an indefinite disqualification on the Claimant from November 8, 2020. This decision resulted in an overpayment of \$15,500.

[3] The Claimant appealed the Commission's decision to the Tribunal's General Division, but it dismissed his appeal.

[4] The Claimant then asked for permission to appeal to the Appeal Division.

The parties agree on the outcome of the appeal

[5] I am making this decision after a case conference held on March 24, 2022. The Claimant and a representative for the Commission attended the conference.

[6] At the conference, the parties reached an agreement that I could summarize as follows:

- a) The General Division made an error of jurisdiction by not considering whether a disentitlement under section 33 of the *Employment Insurance Act* ought to apply instead of an indefinite disqualification.
- b) In the circumstances, I should give permission to appeal, allow the appeal, and give the decision the General Division should have given.¹

¹ This remedy is among those set out in section 59(1) of the *Department of Employment and Social Development Act*.

- c) Given that the Claimant left his job on November 8, 2020, and that his employer would have laid him off on November 10, 2020, it is actually a disentitlement under section 33 of the *Employment Insurance Act* that applies in this situation.² This means that the Claimant is disentitled to EI regular benefits from November 8 to 10, 2020, that is, for two working days.
- d) The Commission will recalculate the Claimant's overpayment based on this short period of disentitlement.³

I accept the proposed outcome

[7] Based on the information available to me, I am giving permission to appeal and allowing the appeal in line with the settlement agreement outlined above.

[8] I want to thank the parties for settling this appeal.

Jude Samson
Member, Appeal Division

² See GD3-11 and GD3-33.

³ At the conference, the Commission's representative told the Claimant that the revised overpayment would be around \$200.