



Citation: *AT v Canada Employment Insurance Commission*, 2021 SST 931

**Social Security Tribunal of Canada
General Division – Employment Insurance Section**

Decision

Appellant: A. T.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (437721) dated October 27, 2021
(issued by Service Canada)

Tribunal member: Gary Conrad

Type of hearing:

Decision date: December 1, 2021

File number: GE-21-2246

Introduction

[1] The Claimant was in receipt of Employment Insurance Emergency Response Benefits (ERB). When those ended a claim for regular employment insurance (EI) benefits was started, with a benefit period start date of October 4, 2020.

[2] In October 2021, the Claimant asked the Commission to reconsider their decision on how many weeks of benefits he was entitled to. He felt that he should get additional weeks of benefits.¹

[3] The Commission issued a reconsideration decision on October 27, 2021, in which they said they could not pay the Claimant additional weeks of benefits.

[4] The Claimant appeals that decision to me.

Issue

[5] I must decide whether the appeal should be summarily dismissed.

The law

[6] Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the General Division must summarily dismiss an appeal if it is satisfied that it has no reasonable chance of success.

[7] Section 22 of the *Social Security Tribunal Regulations* states that before summarily dismissing an appeal, the General Division must give notice in writing to the Appellant and allow the Appellant a reasonable period of time to make submissions.

[8] I sent a letter to the Claimant on November 29, 2021, informing him that I was thinking about summarily dismissing his appeal and asking him to explain to me why I should not do so.

¹ GD03-21

[9] I received his reply² on November 30, 2021, and I considered it in making my decision.

Submissions

[10] The Claimant says that he feels the Commission erred when making their decision as they did not consider all the factors (he does not outline what these factors are) and the Commission did not adequately explain to him how the decision was made and they were biased and they incorrectly interpreted the *Employment Insurance Act*.³

[11] The Claimant says the Commission did not consider that he should be paid more weeks of benefits pursuant to retroactive legislation.⁴

[12] The Claimant says the Commission intertwined his father's appeal, who has the same name as the Claimant, with his appeal, and this violates the law.⁵

[13] The Commission submits the Claimant's claim started after September 27, 2020, so, as per the law,⁶ the maximum number of weeks he can be paid is 50.⁷

[14] The Commission submits that if they look at the legislation prior to the change that allowed for a maximum of 50 weeks to be paid the Claimant would actually only have been payable 28 weeks of benefits.⁸

Analysis

[15] I find that I accept the Claimant's benefit period started October 4, 2020.

² See GD06

³ GD02-4

⁴ GD06-1

⁵ GD06-1

⁶ Subsection 12(2.1) of the *Employment Insurance Act*

⁷ GD04-2

⁸ GD04-2

[16] I note the Claimant has said that he applied prior to that date, and I accept that he had a benefit period prior to October 4, 2020, as the Commission said he had an application on June 1, 2020.⁹

[17] However, I am not looking at that application.

[18] What I am looking at is whether he can be paid more weeks of benefits for the benefit period starting October 4, 2020. That is what the reconsideration decision of the Commission was on, and that is the reconsideration decision the Claimant sent to me that he said he is disputing.

[19] The legislation says, that for a benefit period that begins between September 27, 2020 and September 25, 2021, like the Claimant's, the maximum number of weeks of benefits that can be paid is 50.¹⁰

[20] The Commission says they paid the Claimant 50 weeks of benefits.¹¹ I note the Claimant does not dispute this, but argues that he should get more weeks of benefits.

[21] I note the Claimant has argued that he should be paid additional weeks of EI benefits pursuant to retroactive legislation that was not considered by the Commission.

[22] I find the Commission did in fact consider this argument and explained to him that he would, in fact, be worse off, if they were looking at legislation prior to the change that allowed for a maximum of 50 weeks of benefits to be paid to for a benefit period that begins between September 27, 2020 and September 25, 2021.

[23] The Commission told the Claimant, in a conversation on October 27, 2021, that prior to the change to the legislation allowing for a maximum of 50 weeks of benefits to be paid the weeks of benefits that could be paid ranged from 14 to 45.¹²

⁹ GD04-1

¹⁰ Subsection 12(2.1) of the *Employment Insurance Act*

¹¹ GD04-1

¹² GD03-26

[24] I find that regardless of whether the Commission bothered to look at older legislation or not, as the Claimant's benefits period began between September 27, 2020 and September 25, 2021, the maximum weeks of benefits he can get is 50.

[25] The Claimant argued the Commission improperly interpreted the legislation.

[26] I find there is no interpretation error to be made. The Claimant's benefit period began between September 27, 2020 and September 25, 2021, and the legislation says that allows for a maximum of 50 weeks to be paid; there is nothing to interpret.

[27] The Claimant argues the Commission was biased against him. I note the Claimant has offered no evidence as to the bias and in looking through the file I do not see anything that indicates the Commission is biased against him.

[28] The Claimant argues the Commission has improperly intertwined his father's appeal, who has the same name as him, with his own appeal.

[29] The Claimant does not elaborate on this argument but I can only assume he is referring to the fact that the Commission has included in the Reconsideration File, two requests for reconsideration,¹³ the second one which has part of the social insurance number scribbled out and rewritten in pen.

[30] I assume the Claimant is saying that this second reconsideration request¹⁴ is not his and is actually his father's as the social insurance number is different than the Claimant's.

[31] I note that the second request for reconsideration is just a copy of the first request for reconsideration. The social insurance number has been altered with pen and the name of the employer has been crossed out and another one written in, but in every other respect the second is identical to the first. Same address, name, phone number, arguments, everything. Even the signature from the first reconsideration request is

¹³ See GD03-21 to GD03-22 for the first one and GD03-23 to GD03-24 for the second one.

¹⁴ GD03-23 to GD03-24

visible on the second reconsideration request. It appears someone tried to sign over the signature on the second reconsideration request, but even that is not clear.

[32] So, is it possible that the Commission mistakenly included the second request for reconsideration which was meant for a different file dealing with a matter related to the Claimant's father due to the fact it appeared identical to them to the one the Claimant had already sent in? Perhaps.

[33] But, even if that is the case, such an administrative mistake is irrelevant. It does not change the legislation on the maximum number of weeks the Claimant can get for his benefit period.

[34] I find the Claimant has offered no concrete explanation for why he should be able to exceed this cap on weeks of benefits that can be paid or sufficient evidence to show he should be able to get more than 50 weeks of benefits.

[35] I find the law is clear. For a benefit period starting on October 4, 2020, like the Claimant's, as it is after September 27, 2020, and before September 25, 2021, the maximum weeks of benefits that can be paid is 50.

Conclusion

[36] I find that the appeal has no reasonable chance of success; therefore the appeal is summarily dismissed.

Gary Conrad
Member, General Division – Employment Insurance Section