



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *CL v Canada Employment Insurance Commission*, 2022 SST 340

Tribunal File Number: GE-22-880

BETWEEN:

C. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Josée Langlois

DATE OF DECISION: April 6, 2022

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for regular benefits on November 15, 2021. He said he had voluntarily left his job on November 13, 2021, because he was moving to another city. He added that he would take steps to find another job after moving.

[2] On January 17, 2022, the Canada Employment Insurance Commission (Commission) issued a decision informing the Appellant that he was not entitled to benefits as of November 14, 2021. The Commission found that the Appellant had voluntarily left his job and that he had reasonable alternatives to leaving when he did.

[3] The Appellant appealed that decision on March 7, 2022, after the 30-day deadline had passed.¹

[4] I have to decide whether to grant the Appellant an extension of time to file his appeal.

ANALYSIS

[5] When deciding whether to allow more time to appeal, I have to consider four factors.² The weight to be given to each of the factors set out in *Gattellaro* varies depending on the circumstances, and in some cases, other factors are also relevant. The finding that the extension of time is in the interests of justice is the determining factor for granting that request.³

[6] In his notice of appeal, the Appellant explains that he only became aware of the Commission's reconsideration decision on February 17, 2022. He explains that the decision was sent to his old address. He says he contacted the Service Canada Centre by telephone on several occasions. As soon as he received the Commission's decision,

¹ Section 52(1) of the *Department of Employment and Social Development Act*.

² The factors for determining whether to allow more time are set out in the following decision: *Canada (Minister of Human Resources Development) v Gattellaro*, 2005 FC 883.

³ *Canada (Attorney General) v Larkman*, 2012 FCA 204; see also *Jama v Canada (Attorney General)*, 2016 FC 1290, which confirmed this approach in considering whether to grant an extension of time.

he requested a form to file an appeal with the Tribunal. He explains that he received this form on March 4, 2022.

[7] The facts show that the Appellant moved on December 1, 2021. I also find that the Appellant was diligent: He was waiting for the Commission's reconsideration decision, he contacted the Service Canada Centre, and he filed his notice of appeal as soon as he got the form. The Appellant's diligence shows a continuing intention to pursue his appeal.

[8] The issue is whether the Appellant had just cause for voluntarily leaving his job.

[9] In his notice of appeal, the Appellant says it was impossible for him to take steps to get a job before his move, and he specifies certain things explaining his move to another city. He says his partner was being harassed by a colleague, so he decided to leave his job and move to another city.

[10] I place the most weight on the fact that the case is arguable on appeal. In the spirit of natural justice, the Appellant's explanations must be heard and he must be given the opportunity to present his case. In light of the above, it is not apparent from reading the file that the appeal is bound to fail.

[11] Given that the Commission has already submitted its documents and arguments on the appeal, I am satisfied that there would be no prejudice to the Commission if the matter were to proceed on the merits.

CONCLUSION

[12] In light of the factors established in *Gattellaro* and in the interests of justice, I find, after placing the most weight on whether there is an arguable case, that it would be in the interests of justice to extend the time to file an appeal, in accordance with section 52(2) of the *Department of Employment and Social Development Act*.

Josée Langlois
Member, General Division – Employment Insurance Section