



Citation: *SD v Canada Employment Insurance Commission*, 2022 SST 353

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

## Decision

**Appellant:** S. D.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (459716) dated March 1, 2022  
(issued by Service Canada)

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**Tribunal member:** Gerry McCarthy

**Type of hearing:** Teleconference

**Hearing date:** April 8, 2022

**Hearing participants:** Appellant  
Witness (the Appellant's spouse)

**Decision date:** April 11, 2022

**File number:** GE-22-766

## Decision

[1] The appeal is allowed. This means the Claimant showed good cause for the delay in making a request for a retroactive cancellation of her benefit period.

## Overview

[2] The Claimant established a claim for Employment Insurance (EI) maternity benefits on March 14, 2021. The Claimant also selected 35-weeks of EI parental benefits.

[3] The Claimant had previously established a claim for regular EI benefits on December 20, 2020. This claim was re-activated when the Claimant applied for EI maternity benefits on March 14, 2021.

[4] The Claimant received EI maternity benefits until December 2021 when she was notified her benefits were ending. At that point, the Claimant hadn't received all her parental benefits.

[5] On January 27, 2022, the Claimant requested that her benefit period from December 20 (2020) be cancelled so she could receive all her maternity and parental benefits.

[6] The Canada Employment Insurance Commission (Commission) concluded the Claimant did not show good cause for the delay in making the request to cancel her benefit period between March 14, 2021, and January 27, 2022.

[7] The Commission says the Claimant made no efforts between March 14, 2021, and January 27, 2022, to verify the details of her claim using her "My Service Canada Account."

[8] The Claimant says she had good cause for her delay, because she was suffering from post-partum depression and her family was in the process of moving. The Claimant further says she was misled by a Service Canada representative in December 2021 that her claim would automatically be fixed.

## Issue

[9] Did the Claimant show good cause for the delay in making a request for a retroactive cancellation of her benefit period?

## Analysis

[10] The laws says that once a benefit period has been established for a claimant, the Commission may

(a) cancel the benefit period if it has ended and no benefits were paid or payable during the period; or (b) whether or not the period has ended, cancel at the request of the claimant that portion of the benefit period immediately before the first week for which benefits were paid or payable, if the claimant

(i) establishes under this Part, as an insured person, a new benefit period beginning the first week for which benefits were paid or payable or establishes, under Part VII.1, as a self-employed person within the meaning of subsection 152.01(1), a new benefit period beginning the first week for which benefits were paid or payable, and

(ii) shows that there was **good cause** for the delay in making the request throughout the period beginning on the day when benefits were first paid or payable and ending on the day when the request for cancellation was made.<sup>1</sup>

[11] To show good cause, the Claimant has to prove that she acted as a reasonable and prudent person would have acted in similar circumstances.<sup>2</sup> In other words, she has to show that she acted reasonably and carefully just as anyone else would have if they were in a similar situation.

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<sup>1</sup> Section 10(6) of the *Employment Insurance Act*.

<sup>2</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

[12] The Claimant also has to show that she took reasonably prompt steps to understand her entitlement to benefits and obligations under the law.<sup>3</sup> This means the Claimant has to show that she tried to learn about her rights and responsibilities as soon as possible and as best she could. If the Claimant didn't take these steps, then she must show that there were exceptional circumstances that explain why she didn't do so.<sup>4</sup>

[13] The Claimant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she had good cause for the delay.

**Did the Claimant show good cause for the delay in making a request for a retroactive cancellation of her benefit period?**

[14] I find the Claimant showed good cause for the delay for the following reasons:

[15] First: There were exceptional circumstances in the Claimant's case. For example, the Claimant was suffering from post-partum depression that escalated in the fall of 2021. Furthermore, the Claimant's family had been living in a basement apartment and preparing to move in July 2021. In short, the Claimant's family life was in upheaval and she was dealing with a difficult mental health matter. I realize the Commission submitted the Claimant failed to show she made any efforts to clarify information about her claim that was presented in her application for benefits. Nevertheless, I simply cannot ignore there were exceptional circumstances in the Claimant's life during the period of delay that must be taken into account.

[16] Second: The Claimant's nine-year-old daughter had been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) during the period of delay. On this matter, the Claimant faced daily personal challenges that should be taken into account in looking at the reasons for her delay.

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<sup>3</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

<sup>4</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

[17] Third: The Claimant's testimony on her exceptional circumstances was credible, because her statements were forthright, detailed, and corroborated by a Witness. I realize the Commission submitted that it was the Claimant's responsibility to verify the accuracy of the information presented in her "My Service Canada Account." However, I accept that the Claimant was faced with exceptional circumstances during her period of delay that should be taken into account.

## **Conclusion**

[18] The appeal is allowed. The Claimant showed good cause for the delay in making a request for a retroactive cancellation of her benefit period.

*Gerry McCarthy*

Member, General Division – Employment Insurance Section