



[TRANSLATION]

Citation: *HF v Canada Employment Insurance Commission*, 2022 SST 554

## Social Security Tribunal of Canada Appeal Division

# Decision

**Appellant:** H. F.

**Respondent:** Canada Employment Insurance Commission  
**Representative:** Melanie Allen

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**Decision under appeal:** General Division decision dated  
November 18, 2021 (GE-21-1723)

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**Tribunal member:** Pierre Lafontaine

**Type of hearing:** Videoconference

**Hearing date:** June 14, 2022

**Hearing participants:** Appellant  
Respondent's representative

**Decision date:** June 23, 2022

**File number:** AD-21-453

## Decision

[1] The appeal is dismissed.

## Overview

[2] The Appellant (Claimant) applied for benefits on March 27, 2020. He got emergency benefits, and a benefit period for regular benefits was established effective October 4, 2020. He did not fill out his reports to get Employment Insurance (EI) regular benefits between January 10, 2021, and April 17, 2021. On April 30, 2021, the Claimant applied for benefits for this period.

[3] The Respondent (Commission) decided that the Claimant had not shown good cause for the delay in submitting his reports, and it refused his request. The Claimant asked the Commission to reconsider, but it upheld its initial decision. The Claimant appealed the reconsideration decision to the General Division.

[4] The General Division found that the Claimant had not shown that he researched his rights and responsibilities as soon as possible and as best he could between January 10 and April 30, 2021. It found that the Claimant had not shown that there were exceptional circumstances that explained why he had not submitted his reports by the deadline. The General Division decided that the Claimant did not have good cause for the delay in submitting his reports throughout the entire period of the delay.

[5] The Appeal Division granted the Claimant leave to appeal the General Division decision. He argues that the General Division made an error by not considering the Commission's behaviour and by deciding that he had not shown good cause for the delay in submitting his reports.

[6] I have to decide whether the General Division made an error when it found that the Claimant did not have good cause for the delay in submitting his reports throughout the entire period of the delay.

[7] I am dismissing the Claimant's appeal.

## Issue

[8] Did the General Division make an error when it found that the Claimant did not have good cause for the delay in submitting his reports throughout the entire period of the delay?

## Analysis

### Appeal Division's mandate

[9] The Federal Court of Appeal has established that the Appeal Division's mandate is conferred to it by sections 55 to 69 of the *Department of Employment and Social Development Act*.<sup>1</sup>

[10] The Appeal Division acts as an administrative appeal tribunal for decisions made by the General Division and does not exercise a superintending power similar to that exercised by a higher court.

[11] So, unless the General Division failed to observe a principle of natural justice, made an error of law, or based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it, I must dismiss the appeal.

### **Did the General Division make an error when it found that the Claimant did not have good cause for the delay in submitting his reports throughout the entire period of the delay?**

[12] The Claimant argues that a Commission agent had previously let him submit his reports late. At no time did they tell him that he had to submit his reports by a certain deadline or risk losing his benefits. So, he acted accordingly. The Claimant says that the General Division made an error by not considering the Commission's behaviour and by deciding that he had not shown good cause for the delay in submitting his reports.

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<sup>1</sup> *Canada (Attorney General) v Jean*, 2015 FCA 242; *Maunder v Canada (Attorney General)*, 2015 FCA 274.

[13] The law says that a claim for benefits made after the time prescribed for making the claim will be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.<sup>2</sup>

[14] To establish good cause under the law, a claimant must be able to show that they did what a reasonable person in their situation would have done to find out about their rights and obligations under the law.

[15] A claimant has to take “reasonably prompt” steps to understand their entitlement to EI benefits and satisfy themselves as to their rights and obligations under the law. This obligation involves a duty of care that is both demanding and strict.<sup>3</sup>

[16] Also, the claimant has to show good cause throughout the entire period of the delay.<sup>4</sup>

[17] At the General Division hearing, the Claimant admitted he did not try to contact the Commission to submit his reports between January 10 and April 30, 2021, because he was busy taking intensive training and taking care of his family. He also testified that he did not think to go to a Service Canada Centre because he thought the offices were closed due to the pandemic.

[18] I find that the Claimant’s testimony before the General Division is consistent with his initial statement to the Commission. He said then that he had not actively tried to call the Commission because he was too busy with full-time studies and that he had previously gotten a large amount in EI benefits.<sup>5</sup>

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<sup>2</sup> See section 10(5) of the *Employment Insurance Act*.

<sup>3</sup> *Canada (Attorney General) v Dickson*, 2012 FCA 8; *Canada (Attorney General) v Kaler*, 2011 FCA 266; *Canada (Attorney General) v Innes*, 2010 FCA 341; *Canada (Attorney General) v Trinh*, 2010 FCA 335; *Canada (Attorney General) v Carry*, 2005 FCA 367; *Canada (Attorney General) v Larouche* (1994), 176 NR 69 at para 6 (FCA); *Canada (Attorney General) v Brace*, 2008 FCA 118; *Canada (Attorney General) v Albrecht*, [1985] 1 FC 710 (CA).

<sup>4</sup> *Canada (Attorney General) v Dickson*, 2012 FCA 8.

<sup>5</sup> See GD3-14.

[19] In a second interview, the Claimant once again said that he had been very busy with his studies and that he had gotten a large amount in EI benefits in January 2021, which allowed him to get by in the meantime.<sup>6</sup>

[20] The General Division found that, even though the Claimant had been busy with school and had gotten a large amount allowing him to get by after his late reports from January 19, 2021, this did not justify submitting his reports late.

[21] The General Division determined that a reasonable person in a situation similar to the Claimant's would not have waited until April 30, 2021, to submit their reports, even if the Commission had not told the Claimant to submit his reports by a certain deadline or risk losing his benefits. It determined that the Claimant could not simply rely on his mistaken belief that there were no deadlines for submitting his reports.

[22] The General Division decided that the Claimant had not proven that he had good cause for the delay in submitting his claimant reports throughout the entire period of the delay.

[23] I am of the view that the General Division did not make an error when it decided that, even if the Claimant was not told the first time he was late to submit his reports by a certain deadline or risk losing his benefits, this did not justify such a long delay in submitting his reports for the entire period of the delay.

[24] The overwhelming evidence before the General Division shows that the Claimant, who mistakenly believed there was no deadline, did not try to contact the Commission before April 30, 2021. This was because of his busy schedule and the large amount in EI benefits he had previously gotten, which allowed him to get by in the meantime.

[25] Yet, the Claimant admitted that the Commission had told him to fill out his reports every two weeks. With these instructions, a reasonable person would have been aware of that fact and would not have waited three months before submitting their reports.

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<sup>6</sup> See GD3-16.

[26] Before the General Division, the Claimant failed to show that he had done what a reasonable person in his situation would have done to find out about their rights and obligations under the law. Also, there were no exceptional circumstances that justified his delay.

[27] I am of the view that the General Division considered the Claimant's arguments and that its decision is based on the evidence that was before it, and is consistent with the legislative provisions and case law.

[28] This means that the appeal should be dismissed.

## **Conclusion**

[29] The appeal is dismissed.

Pierre Lafontaine  
Member, Appeal Division