



Citation: *Canada Employment Insurance Commission v CH*, 2022 SST 659

## Social Security Tribunal of Canada Appeal Division

# Decision

**Appellant:** Canada Employment Insurance Commission  
**Representative:** Gilles Luc Belanger

**Respondent:** C. H.

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**Decision under appeal:** General Division decision dated March 25, 2022  
(GE-22-296)

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**Tribunal member:** Charlotte McQuade

**Type of hearing:** Teleconference

**Hearing date:** July 18, 2022

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

**Decision date:** July 21, 2022

**File number:** AD-22-250

## Decision

[1] I am allowing the appeal.

[2] The General Division made an error of law.

[3] I am varying the General Division decision to find that the Respondent (Claimant) is disqualified from benefits starting August 22, 2021, instead of August 25, 2021.

## Overview

[4] C. H. is the Claimant. The Canada Employment Insurance Commission (Commission) disqualified the Claimant from Employment Insurance (EI) regular benefits from August 22, 2021, for voluntarily leaving his employment on August 25, 2021, without just cause.

[5] The Claimant appealed the Commission's decision to the Tribunal's General Division. The General Division also decided that the Claimant had voluntarily left his employment on August 25, 2021, without just cause but modified the date of disqualification from August 22, 2021, to August 25, 2021.

[6] The Commission is now appealing to the Appeal Division. The Commission says the General Division made an error of law when it decided the effective date of disqualification was the date the Claimant separated from his employment, rather than the Sunday of that week.

[7] I am allowing the appeal. I agree with the parties that the General Division made an error of law when it decided the effective date of disqualification was August 25, 2021. I am modifying the General Division's decision to find that the effective date of disqualification is August 22, 2021.

## **The parties agree on the outcome of the appeal**

[8] The General Division decided that the effective date of disqualification was the date of separation, August 25, 2021, rather than the Sunday of the week of separation, being August 22, 2021.

[9] The Commission provided submissions arguing that the General Division erred in law when it decided that. The Commission says this is because the General Division failed to consider certain parts of the law.<sup>1</sup>

[10] At the hearing, the Claimant agreed with the Commission's position that his disqualification should take effect from August 22, 2021, rather than August 25, 2021.

[11] Both parties agree that I should allow the appeal and should vary the General Division decision to change the effective date of disqualification from August 25, 2021, to August 22, 2021.

## **I accept the proposed outcome**

[12] The Claimant had been in receipt of regular benefits from August 1, 2021.<sup>2</sup> The Commission disqualified the Claimant from August 22, 2021, for voluntarily leaving his employment without just cause on August 25, 2021. The Claimant appealed that decision to the Tribunal's General Division.

[13] The General Division also decided the Claimant voluntarily left his employment on August 25, 2021, without just cause but modified the date of disqualification from August 22, 2021, to the date of separation, which was August 25, 2021.<sup>3</sup>

[14] I agree that the General Division made an error of law when it made this decision.

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<sup>1</sup> See AD2-4. The Commission says the General Division did not consider sections 30(2) and 30(3) of the *Employment Insurance Act* (EI Act) and the definition of "week" in section 2(1) of the EI Act.

<sup>2</sup> See paragraph 39 of the General Division decision.

<sup>3</sup> See paragraphs 34 and 35 of the General Division decision.

[15] The Claimant was disqualified under section 30(1) of the *Employment Insurance Act* (EI Act) for voluntarily leaving his employment on August 25, 2021, without just cause.

[16] Section 30(2) of the EI Act says the disqualification for that reason is for each week of the benefit period following the waiting period. Section 30(3) of the EI Act clarifies that if the event giving rise to the disqualification occurs during a person's benefit period, the disqualification does not include any week in that benefit period before the week in which the event occurs.

[17] In the Claimant's situation, the event giving rise to the disqualification happened on August 25, 2021. This event occurred during the Claimant's benefit period, which had begun on August 1, 2021.

[18] Section 30(2) of the EI Act and section 30(3) of the EI Act, read together, make clear that the disqualification begins the week of August 25, 2021.

[19] Since a "week" is defined to mean, "a period of seven consecutive days beginning on and including Sunday, or any other prescribed period" the effective date of disqualification is the Sunday of that week, which is August 22, 2021.<sup>4</sup>

[20] Because the General Division made an error of law, I can intervene in the case.<sup>5</sup>

[21] The parties agree that I should fix the error by varying the General Division's decision to reflect the correct date of disqualification.<sup>6</sup>

[22] I agree this is the appropriate remedy, given the error in question is solely one of law.

[23] So, I am varying the General Division decision to find that the Claimant is disqualified from benefits starting on August 22, 2021.

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<sup>4</sup> See section 2(1) of the EI Act.

<sup>5</sup> Section 58(1)(b) of the *Department of Employment and Social Development Act* (DESD Act) gives me this authority.

<sup>6</sup> Section 59(1) of the DESD Act explains the remedies available to the Appeal Division.

## **Conclusion**

[24] The appeal is allowed.

[25] The General Division erred in law.

[26] I am varying the General Division decision to find the effective date of disqualification is August 22, 2021, rather than August 25, 2021.

Charlotte McQuade  
Member, Appeal Division