



Citation: *SB v Canada Employment Insurance Commission*, 2022 SST 852

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

Decision

Appellant: S. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (476458) dated May 17, 2022 (issued by Service Canada)

Tribunal member: Catherine Shaw

Decision date: June 16, 2022

File number: GE-22-1820

Introduction

[1] The Claimant applied for maternity and parental benefits. There are two types of parental benefits available. On her application, the Claimant chose the extended parental benefit option. She started receiving benefits at the lower rate in March 2022.

[2] The Claimant says that she actually wanted standard parental benefits. She chose the wrong option by mistake on her application. She asked the Canada Employment Insurance Commission (Commission) to change her parental benefits from standard to extended because the lower benefit rate is causing her severe financial difficulty.

[3] The Commission denied the Claimant's request because the Claimant chose extended parental benefits and it is too late to change it because she has already been paid benefits.

Issue

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

Analysis

[5] I must summarily dismiss an appeal if I am satisfied that it has no reasonable chance of success.¹

[6] When you fill out your EI parental benefits application, you need to choose between two options: the "standard option" and the "extended option."²

[7] The standard option pays benefits at the normal rate for up to 35 weeks. The extended option pays the same amount of benefits at a lower rate for up to 61 weeks.

¹ Section 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states this requirement.

² Section 23(1.1) of the *Employment Insurance Act* (EI Act) calls this choice an "election."

[8] Once you start receiving parental benefits, you can't change options.³

[9] The Claimant applied for maternity and parental benefits in November 2021. She selected that she wanted to receive parental benefits immediately after her maternity benefits. She had the choice between standard parental benefits and extended parental benefits. She chose extended parental benefits. The form then asked how many weeks of benefits she wished to claim. She picked 52 weeks from the drop-down menu.⁴

[10] The Commission processed the Claimant's first payment of extended parental benefits on March 11, 2022.⁵ On March 16, 2022, the Claimant contacted Service Canada to ask to be switched to standard parental benefits.⁶ The Commission refused this request as she had already been paid parental benefits.

[11] Before summarily dismissing an appeal, I must send written notice to the Claimant and allow her time to make submissions.⁷

[12] Given that the evidence on record shows that the Claimant chose extended parental benefits and was paid benefits before she requested to switch to standard parental benefits, I sent notice of my intention to summarily dismiss this appeal on June 13, 2022. The Claimant provided a written response that I have considered in this decision.⁸

[13] The Claimant submits that she made an honest mistake when she chose extended parental benefits. She only planned to take one year off from work, and the lower benefit rate has caused her serious financial distress.

³ Section 23(1.2) of the EI Act says that the election is irrevocable (that is, final) once you receive benefits.

⁴ See GD3-3 to GD3-17.

⁵ See GD3-21.

⁶ See GD3-22.

⁷ Section 22 of the *Social Security Tribunal Regulations*

⁸ See GD8.

[14] Unfortunately, the law is clear that once parental benefits are paid on a claim, the decision between standard and extended benefits cannot be changed. This means the Claimant cannot change her parental benefit choice.

[15] I understand the Claimant is experiencing significant financial and personal challenges as a result of this choice. But, there is no flexibility to interpret the law any differently due to her circumstances.

[16] It is plain and obvious on the face of the record that the appeal is bound to fail.⁹ As a result, I find that this appeal has no reasonable chance of success. Accordingly, the law requires that I dismiss it.¹⁰

Conclusion

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

Catherine Shaw
Member, General Division – Employment Insurance Section

⁹ The Federal Court of Appeal used this language to describe the test for summarily dismissing an appeal in *Lessard-Gauvin v Canada (Attorney General)*, 2013 FCA 147.

¹⁰ See section 22, *Social Security Tribunal Regulations*