Citation: *SR v Canada Employment Insurance Commission*, 2022 SST 1374

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	S. R.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (460955) dated March 24, 2022 (issued by Service Canada)

Tribunal member:	Paul Dusome
Type of hearing:	Teleconference
Hearing date:	June 9, 2022
Hearing participant:	Appellant
Decision date:	June 24, 2022
File number:	GE-22-1243

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant.

[2] The Canada Employment Insurance Commission (Commission) has proven that the Claimant was suspended from her job because of misconduct (in other words, because she did something that caused her to be suspended from her job). This means that the Claimant is disentitled from receiving Employment Insurance (EI) benefits.[1]

Overview

[3] The Claimant was put on leave from her job. The employer said that she was put on leave because she refused to comply with its COVID-19 vaccination policy (Policy). The Policy required employees to disclose their vaccination status, and be fully vaccinated by a set date. If they did not comply, they would be put on leave without pay.

[4] Even though the Claimant doesn't dispute that this happened, she says that the Policy did not apply to her at her work location. She worked from home providing support to co-workers. She had no personal contact with others for her work, so was not a threat of spreading COVID to them. She did not voluntarily take a leave of absence. The Commission's decision-making process was incomplete. She advanced a number of arguments to support her position. She should not have been put on leave. She should receive EI benefits.

[5] The Commission treated the leave as a suspension, and accepted the employer's reason for the suspension. It decided that the Claimant was suspended from her job because of misconduct. Because of this, the Commission decided that the Claimant is disentitled from receiving EI benefits.

---

[1] Section 31 of the *Employment Insurance Act* says that claimants who are suspended from their job because of misconduct are disentitled from receiving benefits until the suspension ends, they lose or voluntarily leave their job, or they work enough hours with another employer to qualify to receive benefits.

Matter I have to consider first

The Claimant did not wish to pursue a Charter challenge

[6] At the beginning of the hearing, I reviewed with the Claimant the requirements to make a challenge to the *Employment Insurance Act* (EI Act) and regulations, based on the *Canadian Charter of Rights and Freedoms* (Charter). The reason for doing this was the presence in the written record of several references to the Charter. The Claimant did not rely on the Charter in her grounds for appeal. A successful challenge to specific sections of the EI Act would make those sections invalid. If invalid, those sections would have no force as law. Decisions based on those sections would also be invalid and have no effect. This process involved submitting a one-page form (with additional pages if needed) to the Tribunal, setting out which sections of the EI Act she challenged, which sections of the Charter she relied on, and her arguments in support of the challenge. The arguments would outline how the Claimant thought that the challenged sections of the EI Act violated the rights and freedoms guaranteed by the Charter. If the Tribunal decided that she had legitimate grounds for a Charter challenge, the next step in the process required preparing three separate written legal documents setting out extensive evidence and argument to support the challenge, as well as copies of court decisions to support the argument. The Claimant would be responsible for sending a copy of those documents to 14 different governments in Canada (federal, provincial and territorial). The Tribunal does not provide a lawyer to the Claimant. This process would delay the decision on her appeal for some time.

[7] I reviewed three options for the Claimant. We could take a break now, or adjourn the hearing, to allow her to consider whether to proceed. She could proceed with the Charter challenge process. Or we could proceed with the hearing today without a Charter challenge. The Claimant decided to proceed with the hearing at that time, without a Charter challenge.

Jurisdiction to change leave of absence to suspension

[8] Both the employer and the Claimant understood that she had been placed on an unpaid leave of absence by the employer, pursuant to the employer's COVID-19 vaccination policy. The Claimant did not agree to go on this leave of absence. The employer commented on the Record of Employment, "Leave due to non-compliance with the employer's vaccination policy, please treat as a code M." Code M is "Dismissal or suspension." The Commission did deal with the matter as a suspension, not a leave of absence. The courts have ruled on the issue of changing the reason for disqualification from voluntarily leaving without just cause to misconduct.[2] The Commission and the Tribunal are permitted to do this, if the evidence supports the finding of either voluntarily leaving without just cause or misconduct, or both. That rationale is equally applicable to the situation in this case, namely denial of EI benefits based on either taking a leave of absence without just cause, or suspension for misconduct. I must then decide if the evidence supports either or both of the grounds for disentitlement. The evidence does not support a voluntary leave of absence without just cause, because the Claimant did not voluntarily take a leave. The employer unilaterally put her on an unpaid leave, without her consent, and there has been no agreement on a return to work date. Both the claimant's consent to take leave, and the employer's and claimant's agreement on a return to work date are required under section 32 (voluntary leave of absence without just cause) of the *Employment Insurance Act*. I will have to decide whether the evidence does support a suspension for misconduct.

Justice Centre for Constitutional Freedoms article submitted after the hearing

[9] During the hearing, the Claimant referred to a document that said the Commission's inclusion of dismissal for refusal to take the vaccine as misconduct, was illegal. I asked her to submit the document to review, for an assessment of arguments

[2] *Canada (Attorney General) v Borden*, 2004 FCA 176. That decision considers section 30 of the *Employment Insurance Act,* which deals with the employment ending. Sections 31 and 32 of the Act deal with the employment still continuing, but with the employee not being at work because suspended or on a voluntary leave of absence.

that might be relevant to the appeal. I would forward the document to the Commission for its response. The Commission did not respond by the deadline of June 20, 2022.

[10] The document is from a website for the Justice Centre for Constitutional Freedoms. The title of the article is "Government denial of EI benefits to employees fired for failure to get the COVID shot", dated June 6, 2022. The article concludes that the Commission has no legal jurisdiction for denying EI benefits to Canadians who did not receive the COVID vaccines. Therefore these decisions to deny benefits are null and void. The article states that the policy of the Commission is to find that unvaccinated employees have been suspended due to their own misconduct. The article is directed at the Commission's alleged policy for denying benefits. It is not directed at the individual employer's COVID vaccination policy. The article is not relevant to this appeal. The court decisions referred to do not support the claim of illegality with respect to the Commission's policy or the *Employment Insurance Act*. In addition, because of the limited jurisdiction of the Tribunal, it is limited to deciding the individual appeal. It cannot declare a Commission policy to be illegal unless challenged under the Charter. Absent a finding of violation of a Charter right, the Tribunal must apply the EI law, including the misconduct provisions, to the particular appeal it is deciding.

Issue

[11] Was the Claimant suspended from her job because of misconduct?

Analysis

[12] To answer the question of whether the Claimant was suspended from her job because of misconduct, I have to decide two things. First, I have to determine why the Claimant lost her job. Then, I have to determine whether the law considers that reason to be misconduct.

Why was the Claimant suspended from her job?

[13] The cause for the suspension was the Claimant's failure to take the vaccine. At the hearing, the Claimant testified that the cause was the employer's failure to respond

to her request for information on the COVID vaccine. I will give reasons to support this conclusion when dealing with the cause of the suspension issue, under the heading "The ruling on the misconduct issue".

Is the reason for the Claimant's suspension misconduct under the law?

[14] The reason for the Claimant's dismissal is misconduct under the law. The reasons for this conclusion will be reviewed below, under the headings "The law", The facts", "The arguments of the parties", "The jurisdiction of the Tribunal" and "The ruling on the misconduct issue".

– The law

[15] To be misconduct under the law, the conduct has to be wilful. This means that the conduct was conscious, deliberate, or intentional.[3] Misconduct also includes conduct that is so reckless that it is almost wilful.[4] The Claimant doesn't have to have wrongful intent (in other words, she doesn't have to mean to be doing something wrong) for her behaviour to be misconduct under the law.[5]

[16] There is misconduct if the Claimant knew or should have known that her conduct could get in the way of carrying out her duties toward her employer and that there was a real possibility of being suspended because of that.[6]

[17] The Commission has to prove that the Claimant was suspended from her job because of misconduct. The Commission has to prove this on a balance of probabilities. This means that it has to show that it is more likely than not that the Claimant was suspended from her job because of misconduct.[7]

---

[3] See *Mishibinijima v Canada (Attorney General)*, 2007 FCA 36.
[4] See *McKay-Eden v Her Majesty the Queen*, A-402-96.
[5] See *Attorney General of Canada v Secours*, A-352-94.
[6] See *Mishibinijima v Canada (Attorney General)*, 2007 FCA 36.
[7] See *Minister of Employment and Immigration v Bartone*, A-369-88.

[18] The above rules have been made in court decisions with respect to termination of employment for misconduct. The concept of misconduct is the same whether the case involves termination or suspension. Therefore, those rules are equally applicable to suspension for misconduct.

– **The facts**

[19] The Claimant worked for X, as a technical resource officer dealing with GST accounting. She provided support services to X employees, not to the public. She had been working from home since April 2020, and could continue to work from home indefinitely. Since then, all of her work was done through electronic communications, with little in-person contact. The only in-person contact in that period was going to the lobby of the office building to pick up the equipment at the beginning, and to drop off the equipment after the suspension.

[20] Around November 6, 2021, the employer shared its COVID-19 Policy with staff by email. The employer did not provide a copy of the Policy to the Commission. The Claimant did quote parts of the Policy in her communications with the Commission. The evidence supports the following findings. Both the Claimant and the employer provided verbal evidence to the Commission about the Policy. The Policy required all employees of X to disclose their vaccination status and be fully vaccinated by November 30, 2021, unless accommodated for a certified medical reason, religion, or other prohibited grounds for discrimination under the *Canadian Human Rights Act*. This also applied to employees on a virtual work arrangement. Employees who had not received an accommodation, or who were unwilling to be fully vaccinated or to disclose their vaccination status by November 30, 2021, were given a two-week grace period. At the end of the two weeks, those employees would be placed on administrative leave without pay, have their access to the employer's systems and work sites removed, and be told to stop reporting to work or to stop working remotely. If employees became partially vaccinated while on leave without pay, they could resume work and have their pay recommence.

[21] The Claimant did not disclose her vaccination status, or receive the COVID-19 vaccine, or apply for an exemption on medical, religious or human rights grounds. She was dealing with the union in November about responding to the X Policy. It advised her to hold off disclosing her vaccination status until the deadline, and to ask her manager for information about the vaccine. It also said it would provide her information for her request to the manager, but did not. That led to the delay in the Claimant asking her manager for information. She drafted the letter, had it reviewed by the union, then emailed it to her manager on December 7, 2021. The letter is six pages long. (GD2-169 to 175.) It asks a number of detailed questions about the vaccine. It states that if the Claimant is satisfied with the answers, she will take the treatment, subject to conditions: she will suffer no harm; a fully qualified doctor must take full legal and financial responsibility for any injuries occurring to her; if she declines the offer of vaccination, confirmation that she will not suffer prejudice and discrimination as a result; and that her inalienable rights are reserved. She then details her questions and arguments, citing federal and provincial legislation, the Nuremberg Code, the collective agreement between the employer and union, and a Supreme Court of Canada decision.[8] At the end of the letter, the Claimant asked for an accommodation to extend the date for disclosing her vaccination status until someone could reasonably answer her questions and address her concerns.

[22] The manager emailed the Claimant his response at 12:45p.m. on December 10, 2021. He noted that her request for an extension of time was late, and did not come within the Policy's grounds for accommodation: religious, medical, or human rights. He gave her until 3:00p.m. that day to provide a request for accommodation under one of those grounds, with documentation to support the request. If she did not provide that information by 3:00p.m., she would be considered as unwilling to disclose her vaccination status, and would be placed on leave without pay effective November 13, 2021.

[8] *Cabiakman v Industrial Alliance Life Insurance Co.,* 2004 SCC 55, discussed below at [31].

[23] The employer put the Claimant on leave without pay effective December 13th. As of the date of the hearing, the Claimant was still on suspension. Her employment had not been terminated by X or by her. The Claimant is still pursing grievances over her being put on leave without pay under the Policy.

[24] The Claimant has been consistent in stating and testifying that she did not refuse to comply with the Policy. She simply asked for additional time and information, so that she could make an informed decision about how to proceed.

– **The arguments of the parties**

[25] The Commission says that there was misconduct because the Claimant consciously chose not to comply with the Policy. She knew non-compliance would lead to suspension. She was given the opportunity to seek accommodation on medical, religious or human rights reasons, but she did not do so. The Commission is not required to prove that the employer's policy is reasonable. The employer's conduct is not at issue; the Claimant's conduct is. The Claimant's personal beliefs and vaccination status are not prohibited grounds of discrimination under the *Canadian Human Rights Act*. The Tribunal does not have the authority/jurisdiction to rule on the legality of a vaccine policy, or on whether the employer's policy is reasonable, or on the efficacy of the vaccine, or on whether the suspension was justified and the appropriate sanction. The Claimant can pursue those arguments in other proceedings. The Commission says that it has proven all the factors required to establish misconduct by the Claimant.

[26] The Claimant put forward a range of arguments in support of her position. Many of these are outside the jurisdiction of the Tribunal to deal with. I will deal with those under the next heading.

[27] With respect to the misconduct issue, dealt with in a separate heading below, the Claimant made the following arguments. The Claimant says that the Policy did not apply to her at her remote work location. The employer should have accommodated her with an extension of time, and answered her questions, so that she could make an informed decision about the vaccination requirement. Her actions did not satisfy the

four factors to show misconduct. She should not have been suspended. She should receive EI benefits.

– The jurisdiction of the Tribunal

[28] The Tribunal has limited authority in making decisions. Unlike the superior courts, the Tribunal does not have wide-ranging authority to deal with all legal issues that may be presented to it. The General Division EI Section of the Tribunal may dismiss the appeal, confirm, rescind or vary the decision of the Commission in whole or in part or give the decision that the Commission should have given.[9] That limits what the Tribunal can do in EI matters to decisions the Commission makes with respect to benefits under the *Employment Insurance Act* and its regulations. The Tribunal General Division EI Section has to work within that framework. The Tribunal's authority to decide any question of fact or law necessary for the disposition of the appeal is similarly limited.[10] The Tribunal lacks the authority to rule on some of the arguments advanced by the Claimant.

[29] It is not the role of the Tribunal to modify the employer's policy. The Tribunal's jurisdiction is to rule on the individual appeals it hears, within the context of the EI law. That jurisdiction does not extend to passing judgment on the broader application of employers' policies or contract terms. Nor does it extend to giving a ruling that would alter an employer's policy. That is what the Claimant is asking the Tribunal to do here. The Policy provided for exemptions on religious, medical or human rights grounds. The Claimant did not seek an exemption on those grounds. She is asking the Tribunal to modify the Policy to add an exemption for an extension of time to decide whether to comply or not, or to allow her to work from home. The Policy expressly includes those working remotely in the vaccine requirement and the leave without pay consequence. I cannot make either change.

[30] In support of being allowed to work from home, the Claimant referred to a Commission website dealing with COVID vaccination and misconduct. (GD2-5) The

---

[9] *Department of Employment and Social Development Act*, section 54(1).
[10] *Department of Employment and Social Development Act*, section 64.

text begins by stating that the information given should be used as a guideline. Later, under a subheading dealing with COVID-19 vaccination, the text states that in most cases, if you lose or quit your job because you don't comply with the employer's mandatory COVID-19 vaccination policy, you won't be eligible for regular EI benefits. She quotes from a list of information used to determine eligibility: "If applying the policy to you was reasonable within your workplace context." She did not believe that the Policy was reasonable when she had been working from home since April 2020. That ignores the express provision of the Policy that it applies to those working from home. The Commission and its staff have no power to amend the law. Their interpretation of law does not have the force of law. Their commitment to act in a way other than written in law is absolutely void.[11] The statements on the website do not change the law that I must apply in deciding this appeal.

[31] The Claimant relied on the collective agreement with her union and the employer. She provided a copy of the agreement (GD2-12 to 142). She stated that there is no vaccine requirement in that agreement or in her employment contract. (GD2-143) Leave without pay is not authorized under the collective agreement, or under a Supreme Court of Canada decision. (GD3-36) She relied on a statement by the union that putting workers on leave without pay under a COVID policy, when those workers posed no reasonable threat to the health and safety of their workplaces, might be an abusive and coercive exercise of management authority and a breach of privacy. (GD3-24) She also relied on a labour arbitrator's decision finding a vaccination-only COVID policy to be unreasonable, and directing the employer to modify the policy. (GD2-147) The Tribunal has no jurisdiction to rule on issues involving collective agreements, including the two items mentioned above. That jurisdiction rests exclusively with labour arbitrators, labour relations boards, and the courts. Any remedy under the collective agreement has to be pursued through those bodies, not through the Tribunal. Conversely, those arbitrators and boards have no jurisdiction to rule on EI issues. The arbitrator's decision the Claimant provided has no bearing of the EI issue in this appeal. It therefore does not support the Claimant's position. The same applies to the

[11] *Granger v Employment and Immigration Commission*, A-684-85, affd [1989] 1 S.C.R. 141.

Claimant's union's opinion on a COVID policy. The Supreme Court of Canada decision[12] the Claimant relies on deals with the right of a non-unionized employer to suspend an employee charged with attempted extortion outside his work. After the employee was acquitted of the charge, he returned to work with the employer. The employment contract was silent as to suspension of an employee. The Court held that the suspension was justified to protect the employer's business interests, but that the employer had to pay the employee during his time on suspension. Since this case deals with a non-unionized employer, and since the law relating to unionized employers does differ in important ways, the decision is not relevant to this appeal. In addition, the decision does not decide that the suspension was invalid, so does not support the Claimant's argument that the Policy is unreasonable and invalid.

[32] The Claimant referred to a news article dealing with wrongful dismissal. (GD3-23) It states that there is a misconception that employers can dismiss a worker for misconduct for being unvaccinated. The article states, "…this is not how the courts will address the matter." The law of wrongful dismissal differs substantially from the law of employment insurance, and does not have direct application to employment insurance cases. In the EI context, the issue is not whether the employer was guilty of misconduct by engaging in wrongful dismissal; rather, the question is whether the claimant was guilty of misconduct.[13] The article does not support the Claimant's position.

[33] The Claimant relied on section 11(2) of the Ontario *Health Care Consent Act* in support of her position. (GD3-24) That section deals with the concept of informed consent. The Claimant's argument is that the employer has a duty to obtain her informed consent prior to requiring her to take the vaccine. That argument does not succeed. Section 11(2) appears in Part II, Treatment. The obligation to obtain informed consent before treatment applies to a health practitioner, such as a doctor, nurse or other regulated health professional (section 10(1)(a) and 2(1)). That obligation does not apply to the employer.

---

[12] *Cabiakman v Industrial Alliance Life Insurance Co.,* 2004 SCC 55.
[13] *Paradis v Canada (Attorney General)*, 2016 FC 1282.

[34] The Claimant cites the U.S. Occupational Safety and Health Authority for the statement that its policy exempts remote workers from vaccine mandates. She then asks why Canada is not adopting the same principle. First, this is a statement from a U.S. authority. That statement is not applicable to Canada. In addition, in this appeal, we must deal with Canadian law as it is, not as it might be. This point is not relevant to this appeal.

[35] The Claimant refers to a number of statues dealing with privacy. (GD3-33) If there are violations of the provisions of those Acts, the remedy lies with the tribunals set up under those Acts, or with the courts. The Tribunal does not have jurisdiction to rule on the provisions of those Acts.

[36] The Claimant refers to discrimination and to the *Canadian Human Rights Act*. (3-33 to 34) If there has been or may be discrimination contrary to that Act, the remedy lies with the Canadian Human Rights Commission, or with the courts, not with the Tribunal.

[37] The Claimant says that she had COVID several weeks before filing her appeal. She now has natural immunity, which is more effective than a vaccine. (GD2-143) The Tribunal has neither the authority nor the expertise to rule on that claim. It cannot be a factor in this decision.

[38] In a conversation with the Commission, the Claimant said that she felt entitled to receive EI benefits, as she had paid into the EI system, and the involuntary leave was unethical. Employment insurance is not an automatic benefit. Like any other insurance scheme, you must meet certain requirements to qualify. As set out under the next heading, the Commission has proven that the Claimant was suspended from her job because of misconduct. This means that the Claimant is disentitled from receiving benefits under the EI Act, despite having paid into the system.

– **The ruling on the misconduct issue**

[39] I must determine this appeal on the basis of the law set out above, at paragraphs [15] to [17].

[40] I find that the Commission has proven that there was misconduct, for the following reasons.

[41] First, did the Claimant know or should have known that her conduct could get in the way of carrying out her duties toward her employer? The evidence establishes that the Claimant knew the requirements in the Policy, and the consequence of leave without pay from her job for non-compliance with the Policy. She was aware that she was required to disclose her vaccination status by November 30, 2021. She was aware that her failure to be fully vaccinated or to disclose her vaccination status would lead to being placed on leave without pay. She did not comply with any of the requirements by the second deadline of December 13, 2021. The employer suspended her effective that date. That evidence shows that the Claimant knew that her conduct would get in the way of carrying out her duties toward her employer. Her non-compliance with the Policy resulted in her suspension. That removed her from being able to carry out all of her duties toward the employer. That is the most significant means of getting in the way of carrying out her duties toward her employer. The Claimant argued that she could have continued to work from home, so she could have continued carrying out her duties. That does not succeed. It assumes that she could be exempted from the express Policy requirement that non-compliant employees, including those who worked from home, would be placed on leave without pay. Neither the Claimant nor the Tribunal has the power to grant her an exemption from the express terms of the Policy.

[42] Second, was her non-compliance with the Policy wilful, conscious, deliberate, or intentional? The Claimant testified that she did not believe that her actions were wilful. She did not refuse to comply, she just asked for time to get information and to make an informed decision. It was reasonable for her to ask for more time. The employer did not reply, and that was unreasonable. I disagree with that position. The Claimant made her choice to not comply with the Policy requirements of disclosing her vaccination status by November 30th, or of applying for accommodation on medical, religious or human rights grounds by that date. She put forward a number of reasons for not complying, which show that her non-compliance was deliberate. She said that she did not refuse to comply, but simply asked for time to fully inform herself before making a decision. It is

true that she did not expressly say that she would not comply, or would refuse to take the vaccine, or would refuse to disclose her vaccination status. But non-compliance can consist of express statements or refusals to comply, or it can consist of passive actions, such as doing nothing required by the Policy within the deadline. The Claimant did the latter. She did ask for an accommodation of an extension of time on December 7th, and for extensive information and guarantees from the employer. The Policy does not provide for an extension of time as an accommodation. The Claimant is asking the Tribunal to amend the Policy to permit this. As noted above, the Tribunal does not have jurisdiction to amend the employer's Policy. The Claimant is also asking very detailed questions about the vaccine, and imposing conditions for her taking the vaccine. Those conditions include a confirmation that she will suffer no harm from the vaccine, and that a fully qualified doctor will take full legal and financial responsibility for any injuries to herself. Those questions and conditions impose a huge burden on any employer. In particular, the condition of having a fully qualified doctor takes full legal and financial responsibility for any injuries to her, is in all probability, impossible to meet. I find that the demands made in the Claimant's request on December 7th support an inference that she was not serious about getting the vaccine, and thus about complying with the Policy. There is no doubt that the Claimant's non-compliance was wilful, conscious, deliberate and intentional.

[43] Third, did the Claimant's non-compliance with the Policy cause her suspension? The evidence is clear that she was placed on a leave without pay because of her non-compliance with the Policy. This is based on the Claimant's application for EI benefits (GD3-9), the Record of Employment (GD3-17), on the conversations the Commission had with the Claimant and with the employer, on the employer's email to the Claimant on December 10, 2021 (GD3-29), on the employer's response to the Claimant's grievance (GD3-43), and on the Claimant's testimony. The Claimant also testified that she did not think that she would be put on leave. She thought that the employer would approve her request for an extension of time. She testified that the cause of her suspension was the failure of the employer to answer her questions about the vaccine in her email of December 7, 2021. Those three items of testimony are not persuasive. Those three are not mentioned in the documents listed above that contain statements

from the Claimant, or in the Claimant's request for reconsideration or her notice of appeal to the Tribunal. The Tribunal in making findings of fact may be entitled to discount a claimant's later statements as compared to her earlier statements, particularly where the later statements raise new matters not mentioned in the earlier statements.[14] I do not accept the testimony on those three items.

[44] Fourth, did the Claimant know of the possibility of suspension for non-compliance? The Claimant was aware from the Policy of the possibility of being put on leave without pay. The Policy explicitly set out the consequence of leave without pay and cessation of all her work for non-compliance in section 6.7.1 (GD3-35). She also had discussions with her union representative in November about the Policy. She was aware of the definite leave without pay from the employer's email to her of December 10, 2021. There is no doubt that the Claimant knew she would be suspended for non-compliance. Her testimony that she thought she would not be put on leave has been rejected in the previous paragraph.

Conclusion

[45] The Commission has proven that the Claimant was suspended from her job because of misconduct. Because of this, the Claimant is disentitled from receiving EI benefits.

[46] This means that the appeal is dismissed.

Paul Dusome
Member, General Division – Employment Insurance Section

[14] *Cundle v Human Resources and Skills Development Canada*, 2007 FCA 364.