



Citation: *BS v Canada Employment Insurance Commission*, 2022 SST 1370

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

Decision

Appellant: B. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (419668) dated April 16, 2021 (issued by Service Canada)

Tribunal member: Linda Bell

Type of hearing: Questions and answers

Decision date: June 23, 2022

File number: GE-21-854

Decision

[1] I am dismissing the appeal. I disagree with the Claimant.

[2] The Claimant hasn't shown that she had good cause for the delay in claiming sickness Employment Insurance (EI) benefits. In other words, the Claimant hasn't given an explanation that the law accepts. This means that her reports (claims) for sickness benefits can't be treated as though they were made earlier.

[3] In addition, the Claimant hasn't shown that she had good cause for the delay in requesting regular EI benefits. She hasn't given an explanation that the law accepts. This means that her request for regular benefits can't be treated as though it was made earlier.

Overview

[4] In general, if you submit an application and qualify for EI benefits, a benefit period is established. Once you have established a benefit period, you have to make a claim for each week that you didn't work and want to receive benefits.¹

[5] You make claims by submitting reports to the Commission every two weeks. Usually, you make your claims on-line. There are deadlines for making claims.²

[6] The Claimant established a benefit period for sickness benefits effective February 18, 2018. She made claims and received 11 weeks of sickness benefits ending May 27, 2018. She tried to submit her next claim for sickness benefits late, after the deadline.

[7] The Claimant wants her claims for the remaining 4 weeks of sickness benefits to be treated as though they were made earlier. This is called antedating (or, backdating) the claims. For this to happen, the Claimant has to prove that she had good cause for the entire period of delay.

¹ See section 49 of the *Employment Insurance Act* (Act).

² See section 26 of the *Employment Insurance Regulations* (Regulations).

[8] The Claimant also requests the Commission pay her regular benefits starting August 31, 2018.³ The Commission treated this as a request to backdate (antedate) a renewal claim to pay regular benefits.⁴ For this to happen, the Claimant has to prove that she had good cause for the entire period of delay in requesting a renewal of her claim to pay regular benefits.

[9] The Commission decided that the Claimant didn't have good cause and refused to antedate her reports for sickness EI benefits. It also determined that the Claimant didn't have good cause for the delay in renewing her claim to collect regular benefits. So it refused her request to antedate her renewal claim for regular EI benefits.

[10] The Claimant disagrees with the Commission. She appeals to the Social Security Tribunal (Tribunal). She says she assumed that she didn't qualify for benefits because of the reasons for separation listed on the amended ROEs issued by her employer. She made this assumption based on what she read on the Service Canada Website.⁵

[11] The Claimant also says she was prevented from requesting further sickness benefits because she was "shut out of the on-line reporting system" when her employer submitted the ROE stating she had abandoned her job.⁶ In addition, she argues the Commission failed to consider the medical note she submitted on June 5, 2018.⁷

Matters I must consider first

Interlocutory Orders

[12] The Claimant has submitted volumes of documents and emails in which she requests information and/or actions that do not fall within my jurisdiction.

[13] In the interest of upholding procedural fairness and access to justice, I issued an interlocutory order on January 24, 2022. In this order, I explain my jurisdiction and the

³ See pages GD3-28, GD3-29, and GD4-2.

⁴ See the last paragraph on the bottom of page GD3-37 and the second paragraph of GD4-2.

⁵ For example, see pages GD2-21, GD2-24, and GD2-68.

⁶ See page GD2-24 and GD2-101.

⁷ See page GD43-20.

issues I will be determining.⁸ I issued a subsequent interlocutory order on April 27, 2022. So this decision ought to be read along with the interlocutory orders.⁹

Evidence and submissions

[14] The Federal Court of Appeal says a Tribunal need not refer to each and every piece of evidence before it, in its reasons.¹⁰ With this in mind, I wish to clarify that I have considered all relevant evidence received on file for this appeal prior to June 22, 2022.

[15] I acknowledge that I have not referred to every piece of evidence in this decision. Instead, when considering the volume, and number of duplicate statements and submissions on file, I have referenced only that which is most relevant to the issue(s) being determined.

Issues

[16] Has the Claimant shown good cause for the entire period of delay in requesting sickness benefits? When determining this, I must first determine the entire period of delay in requesting sickness benefits.

[17] Has the Claimant shown good cause for the entire period of delay in requesting to renew her claim to receive regular benefits? When determining this, I must first determine the entire period of delay in requesting regular benefits.

Analysis

[18] To get a claim or renewal claim antedated, the Claimant has to prove she had good cause during the entire period of the delay.¹¹ Both issues fall under the same section of the Act.¹²

⁸ See the GD33 document.

⁹ See the GD33 and GD37 documents.

¹⁰ *Simpson v Canada (Attorney General)*, 2012 FCA 82 at para 10.

¹¹ See *Paquette v Canada (Attorney General)*, 2006 FCA 309, and section 10(5) of the Act.

¹² See section 10(5) of the Act.

[19] The Claimant has to show good cause 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 entire period of delay.

[20] To show good cause, the Claimant has to prove that she acted as a reasonable and prudent person would have acted in similar circumstances.¹³ 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.

[21] The Claimant also has to show that she took reasonably prompt steps to understand her entitlement to benefits and obligations under the law.¹⁴ This means that the Claimant has to show that she enquired 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.¹⁵

[22] The Claimant has to show that she acted this way for the entire period of the delay.¹⁶ That period is from the day she wants her report claims or renewal claim antedated to the day she actually made the claim for sickness benefits or requested regular benefits.

[23] To receive payment for sickness or regular benefits, you have to submit a claim report (make a claim) for each week that you didn't work and want to receive benefits.¹⁷

[24] There are deadlines for making claims.¹⁸ The law says that you have to submit your claim for benefits within 3 weeks after the week you want to receive benefits. This is the same time for requesting to renew a claim to pay regular benefits.

¹³ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

¹⁴ See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

¹⁵ See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

¹⁶ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

¹⁷ See section 49 of the Act.

¹⁸ See section 50 of the Act and section 26 of the Regulations.

Period of Delay

– For sickness benefits

[25] I find that the entire period of the delay in requesting sickness benefits is from May 27, 2018, to September 17, 2019 (15 months and 21 days). Here is what I considered.

- a) The Claimant is asking to backdate her reports to May 27, 2018, so she can claim the remaining 4 weeks of sickness benefits.
- b) On June 7, 2018, the Claimant successfully submitted her biweekly report (claim) for the period ending May 26, 2018.¹⁹ This paid out the eleventh week of sickness benefits.
- c) The Claimant could have submitted her next claim report on June 9, 2018, but no later than June 30, 2018.²⁰ The Claimant didn't submit her next claim within this time limit.
- d) Eight months later, the Claimant tried to submit her next biweekly claim for sickness benefits on February 6, 2019.²¹ This biweekly claim rejected because it was late, after the 3-week deadline.²² The Claimant didn't contact the Commission to enquire about this rejected claim at this time.
- e) The Claimant waited seven months, until September 17, 2019, before contacting the Commission to ask about whether she is entitled to more sickness benefits.²³

[26] In this case, the entire period of delay in requesting sickness benefits can be broken down into two periods. The first period of delay is from May 27, 2018, to February 6, 2019 (8 months and 10 days). This is from the date the Claimant wants her claims to start to the day she attempted to submit the late biweekly claim.

¹⁹ See pages GD2-31 to GD2-33.

²⁰ See the message about the next claim report on page GD2-33.

²¹ See the rejected report at page GD3-21.

²² See page GD4-1

²³ See page GD3-22.

[27] The second period of delay in claiming sickness benefits, is from February 6, 2019, to September 17, 2019 (7 months and 11 days). This is from the date her biweekly claim rejected to the date the Claimant contacted the Commission to enquire about payment for the remaining 4 weeks of sickness benefits.

[28] In this case, I must consider both periods of delay in claiming sickness benefits, when determining whether the Claimant has shown good cause for the entire period of delay.

– **Period of delay in requesting regular benefits**

[29] I find that the entire period of the delay in requesting to renew the claim for regular benefits is from August 31, 2018, to January 14, 2021 (28 months and 14 days). Here is what I considered.

- a) The Claimant is asking to backdate her request for regular benefits to August 31, 2018.
- b) The first time she requested regular benefits is during the January 14, 2021, conversation with the Commission.²⁴
- c) On January 14, 2021, the Claimant told the Commission she became available as of August 31, 2018.²⁵
- d) I recognize that the Claimant wrote numerous letters to the Commission starting December 29, 2019. But she doesn't request payment of regular benefits in these letters.

[30] Based on the above, I find the entire period of delay in requesting regular benefits is from August 31, 2018, to January 14, 2021 (28 months and 14 days).

²⁴ See page GD3-28.

²⁵ See page GD3-28.

Has the Claimant shown good cause for the entire period of delay?

[31] No. After careful consideration of the totality of the evidence before me, I find that the Claimant hasn't shown good cause for the entire period of delay, in claiming sickness benefits. Nor has she shown good cause for the entire period of delay in claiming regular benefits.

[32] The Commission says that the Claimant's arguments have no merit because the timeliness to request benefits is a different matter than being entitled to receive benefits. It says she has not shown that she tried to contact Service Canada, in a timely fashion, to determine why she had not received all of her sickness benefits, once she recovered from her illness on August 31, 2018.²⁶ Nor did she ask how to receive regular benefits in a timely manner.

[33] The Commission states it advised the Claimant that she was approved for the maximum 15 weeks of sickness benefits. But she only submitted biweekly claims for 11 weeks of sickness benefits, up to May 26, 2018.²⁷

[34] The Commission also says that the Claimant didn't submit her next claim within the required time. Her next claim, for the period starting May 27, 2018, was due by June 30, 2018. The Claimant didn't attempt to complete this claim until seven months later on February 6, 2019. The claim rejected because it was late.²⁸ This was five months after she says she was capable of working again. The Claimant waited seven more months, until September 17, 2019, before contacting Service Canada to ask about her entitlement to more sickness benefits.

[35] The Claimant presents the same evidence and arguments for both antedate requests. She says that she had good cause for the delay in requesting sickness and regular benefits because,

²⁶ See page GD4-3.

²⁷ See the Commission's initial decision letter at pages GD2-28, GD2-131, and GD3-19.

²⁸ See page GD3-21.

- She was “shut out of the on-line reporting system” when her employer submitted a fraudulent Record of Employment (ROE) that states she had abandoned her job.²⁹
- She assumed that she didn’t qualify for more benefits based on the issues with the ROEs and what she read on the Service Canada Website.³⁰
- She says the Commission failed to consider the medical note she submitted on June 5, 2018.

– **Shut out of Reporting System**

[36] The evidence doesn’t support the Claimant was shut out of or prevented from submitting her biweekly claims within the required 3-week deadline.

[37] Once a benefit period is established, claimants may continue to submit biweekly claims providing they do so within the 3-week deadline, as set out above.

[38] The Claimant provides a copy of the biweekly claim she submitted on June 7, 2018. This claim states, “You can file your next report on Saturday, June 9, 2018. It is important to file your next report within 3 weeks of this date otherwise loss of benefits may occur.”³¹

[39] The Claimant says she never voluntarily stopped submitting her claims. She says she was “shut out of the on-line reporting system” when her employer submitted fraudulent Records of Employment (ROE). These ROEs list various reasons why she was no longer working including job abandonment and dismissal.

[40] After submitting her appeal to the Tribunal, the Claimant taped a telephone conversation she had on July 12, 2021, with the Commission’s staff member (Mike). She submitted this audio recording as evidence in support of her appeal.³²

²⁹ See page GD2-24 and GD2-101.

³⁰ For examples, see pages GD2-21, GD2-24, and GD2-68.

³¹ See pages GD2-31 to GD2-33.

³² See the GD19 audio recording.

[41] During that conversation, Mike says the Claimant wasn't shut out of the on-line reporting system because of the ROEs issued by her employer.³³ Mike explains that when a claimant stops completing their reports (claims), after completing several claims, their claim goes dormant. He says it isn't Service Canada's responsibility to call and ask a claimant why they stopped submitting claims.³⁴

[42] I recognize that on July 12, 2021, Mike initially says her claims, which the Claimant submitted on May 6, 2018, May 24, 2015, and June 4, 2018, rejected due to an error code 505.³⁵ But Mike corrects this statement explaining he sees those claims were "cycling." This means they were pending, waiting for the Commission to finalize the Claimant's request to antedate her initial claim.³⁶

[43] The Commission says that the MA code doesn't prevent the Claimant from completing electronic biweekly claims. Instead, the Claimant may continue filing claims, which "cycle" until a decision is made and the stop pay is removed.³⁷ Mike also explains this during the July 12, 2021, telephone conversation.³⁸

[44] Mike says that when the Claimant's reports rejected on February 6, 2019, the system would have issued her an SOS error message telling her to call the Service Canada office.³⁹ But she didn't contact Service Canada or the Commission until seven months later on September 17, 2019.⁴⁰

[45] The evidence supports a finding that the Claimant simply stopped submitting her claims. This is around the same time she received the first amended ROE from her employer. She wasn't blocked or prevented from submitting her claims on June 8, 2018, or within the 3-week time limit.

³³ At 35:14 of the GD19 audio recording.

³⁴ Starting at 13:18 of the audio recording.

³⁵ Starting from approximately 41:23 of the recording.

³⁶ Starting at 44:50 of the recording.

³⁷ See page GD25-1.

³⁸ Starting at 44:50 of the GD-19 audio recording.

³⁹ Starting at 35:55 of the GD-19 audio recording.

⁴⁰ See page GD3-22.

[46] To clarify, on June 7, 2018, the Claimant successfully submitted her claims for the period ending May 19, 2018.⁴¹ There is no evidence that she attempted to submit another claim until almost nine months later, on February 6, 2019. As stated above, the February 6, 2019, claim rejected because it was late.

[47] Based on the evidence as set out above, I find the Claimant wasn't shut out of the reporting system or prevented from submitting her next biweekly claims, within the 3-week time limit. Instead, the evidence shows she stopped submitting her biweekly claims and her claim went dormant.

– **Assuming she didn't qualify**

[48] I find that assuming she doesn't qualify for benefits doesn't show the Claimant had good cause for the delay in requesting sickness or regular benefits.

[49] Good cause for delay is not the same as having a good reason, or a justification for the delay. The Federal Court and the Federal Court of Appeal have consistently held that reliance on rumours, unverified information, or on unfounded and blind assumptions doesn't constitute good cause.⁴²

[50] I have considered the Federal Court of Appeal decision, which confirms that since the Service Canada website doesn't purport to deal with the specifics of every person's particular situation, claimants can't reasonably treat general information on the website as if it were personally provided to them by the Commission, in response to an enquiry about their eligibility on given facts.⁴³

[51] I recognize that the Claimant references the Digest of Entitlement Principles (Digest), to support she had good cause for the delay in requesting sickness and regular benefits. Specifically, regarding her argument that there was inadequate and

⁴¹ See pages GD2-31 to GD2-33.

⁴² *Canada (Attorney General) v Trinh*, 2010 FCA 335; *Canada (Attorney General) v Rouleau*, [1995] 1203 F.C. A-4-95.

⁴³ See *Mauchel v. Canada (AG)*, 2012 FCA 202.

misinformation put forth from the Commission and her employer.⁴⁴ But the Digest is not legally binding.

[52] The Commission created the Digest of Benefit Entitlement Principles (Digest) as a guideline for consistency when making decisions.⁴⁵ The Digest doesn't have legislative authority so it doesn't have the force of law. This means I am not bound by these guidelines.

[53] The Claimant states she stopped submitting her claims for sickness benefits once she learned that her employer issued the first amended ROE stating she had abandoned her job.⁴⁶ She says she assumed that she didn't qualify for more sickness benefits based on the ROE(s) and on what she read on the Service Canada Website.⁴⁷ As set out above, good cause is not shown by relying on assumptions. Nor can a claimant reasonably treat general information on the website as if it were personally provided to them by the Commission.

[54] The Claimant says she delayed in requesting sickness benefits because, regardless of the "deferral date" to when a decision would have been rendered, once the first amended ROE was issued, the Commission would have considered or deemed her as being disqualified for any EI benefits.⁴⁸ This is an incorrect assumption.

[55] The law says that a disqualification is suspended during any week for which the Claimant is otherwise entitled to receive sickness benefits.⁴⁹ Put another way, a claimant who is entitled to sickness benefits, can receive payment for sickness benefits when there is a disqualification due to the reason for separation. A disqualification due to the reason for separation only prevents payment of regular benefits.

⁴⁴ See page GD43-74.

⁴⁵ See *Canada (Attorney General) v Hudon*, 2004 FCA 22; *Canada (Attorney General) v Gagnon*, 2004 FCA 351.

⁴⁶ For example, see pages GD3-24, GD2-21, and GD2-24.

⁴⁷ See page GD2-68.

⁴⁸ See page GD43-26.

⁴⁹ See section 30(4) of the Act. Sickness benefits are also referred to as special benefits.

[56] The Claimant confirms that on or about June 5, 2018, she received the Commission's written decision letter.⁵⁰ Both parties submitted a copy of the June 5, 2018, decision letter, which states as follows.

- We have approved your Employment Insurance sickness benefits for the 15-week maximum starting February 18, 2018.
- We are deferring our fact-finding and decision on why you ceased to be employed with X. However, if you apply for EI regular benefits, we will need to complete the fact-finding and decision process. Our decision could affect your eligibility for regular benefits.
- If you would like more details regarding this (these) decision(s), please contact us at either 1-800-206-7218 or at a Service Canada Centre.⁵¹

[57] I find that there is no ambiguity in the Commission's June 5, 2018, decision letter. This letter clearly states the Claimant is entitled to 15 weeks of sickness benefits. It also clearly states the Commission is deferring its fact-finding and decision on why she ceased to be employed.

[58] The decision letter also clarifies when the Commission will need to complete the fact-finding and decision process, which is, "if the Claimant applies for regular EI benefits." It is not up to a claimant to conduct the fact-finding or adjudicate the reason for separation listed on the ROE. It is the Commission, who adjudicates the reason for separation and determines whether a claimant is disqualified from receiving regular benefits.

[59] Although the Claimant confirms she received the first amended ROE sometime in June 2018, she waited 8 months after receiving this ROE before trying to complete her next biweekly claim on February 6, 2019. There is no evidence that she attempted to contact the Commission to clarify why this report rejected. Nor is there evidence she

⁵⁰ See pages GD3-19 and GD2-20.

⁵¹ See pages GD2-28, GD2-131, and GD3-19.

contacted the Commission at this time, to clarify her assumptions about her entitlement to sickness benefits.

[60] I recognize that the medical evidence shows that the Claimant was unable to work due to her illness or injury until July 31, 2018.⁵² So, if she was unable to enquire about her sickness benefits due to her illness or injury, she ought to have enquired about her entitlement to sickness benefits shortly after August 31, 2018, the date she told the Commission she was capable of working and entitled to regular benefits.⁵³ Instead, she waited another year, until September 2019, before contacting the Commission to enquire about her entitlement to additional weeks of sickness benefits and regular benefits.

[61] If the Claimant was confused, had questions, or required more details about her entitlement to sickness benefits, she ought to have contacted the Commission shortly after she received the first amended ROE in June 2018. Or, at the very least, she should have contacted the Commission shortly after she became available to work on August 31, 2018.

– **Consideration of final medical note**

[62] I find the evidence supports the Commission did consider all four medical notes submitted by the Claimant. I see no evidence to support the Claimant's assertion that she lost entitlement to sickness benefits because the Commission failed to consider all of her medical notes.

[63] The law, in effect during the Claimant's benefit period, says that a claimant must provide a medical certificate, completed by a medical doctor, to prove entitlement to medical benefits. The medical certificate must attest to the claimant's inability to work and state the probable duration of the illness or injury.⁵⁴

⁵² See page GD27-7.

⁵³ See page GD3-28, GD3-37, and GD3-39.

⁵⁴ See section 40 of the Regulations.

[64] The Claimant says that she lost entitlement to sickness benefits because the Commission didn't take into account her third sick note.⁵⁵ Throughout her conversation with the Commission's officer Mike, she argued that the Commission failed to consider the final medical she submitted on June 5, 2018. This medical note states she was unable to work until July 31, 2018.⁵⁶

[65] The medical notes on file show the Claimant was unable to work during the following periods.

- From February 16, 2018, to May 25, 2018,⁵⁷
- From March 23, 2018, to April 22, 2018, ⁵⁸
- From April 20, 2018, to May 25, 2018, ⁵⁹
- From May 25, 2018, to July 31, 2018. ⁶⁰

[66] The Commission's action item dated June 5, 2018, lists the transcript of the Doctor's fourth note. It states the Claimant is unable to work for medical reasons from May 25, 2018, to July 31, 2018. This action item states, completed on June 5, 2018, with the recovery date noted to file.⁶¹ This is evidence that the recovery dates from the fourth and final medical note were input on the claim.

[67] Based on the June 5, 2018, decision letter, the Commission had to have considered all four medical notes showing the Claimant was unable to work from February 16, 2018, to July 31, 2018.⁶² This is because the Commission states in its June 5, 2018, decision, it is approving the Claimant's sickness benefits for the 15-week maximum starting from February 18, 2018.

⁵⁵ See page 43-20.

⁵⁶ See the GD19 audio file.

⁵⁷ See page GD25-3.

⁵⁸ See pages GD27-6.

⁵⁹ See page GD27-5.

⁶⁰ See pages GD2-34, GD2-111, GD25-2, and GD27-7.

⁶¹ See pages GD43-15 to GD43-16.

⁶² For example, see the initial decision letter on page GD3-19.

[68] If the Commission failed to consider the fourth medical note, it would only approve the sickness benefits for 13 weeks. This is because the third medical shows the Claimant is unable to work up to May 25, 2018.

[69] When determining the first three medical notes allow 13 weeks of benefits, I recognize that the first week of the claim, starting February 18, 2018, is the waiting period. The next 13 weeks are from February 25, 2018, to May 26, 2018. So, the first three medical notes would only entitle the Claimant to 13 weeks of sickness benefits, ending May 25, 2018.

[70] As stated above, the Commission approved the claim for the maximum 15 weeks of sickness benefits. The fourth medical note states the Claimant is unable to work until July 31, 2018. This extends entitlement past the previous 13 weeks covered by the third medical note, ending May 25, 2018. This means the Commission would have considered the fourth medical note in order to allow the claim for the maximum 15 weeks of sickness benefits.

[71] I have listened to the full audio recording of the conversation the Claimant had with Mike on July 12, 2021.⁶³ I don't accept the Claimant's paraphrasing or interpretations of Mike's statements during this conversation. Nor do I accept her assertion that this conversation is evidence that she lost entitlement to sickness benefits because the final medical note wasn't considered.

[72] I acknowledge that the Claimant and her witness discussed the medical notes on file, with Mike during the July 12, 2021, conversation. But Mike never says the medical notes were not considered. Instead, Mike consistently says the medical note submitted June 5, 2018, was added the same day, so any decisions relating to the Claimant's file after that should have it factored into it.⁶⁴

[73] I also recognize that the Commission issued an antedate decision on June 5, 2018. But as stated above, the evidence supports that all medical notes would have

⁶³ See the GD19 audio recording.

⁶⁴ See the GD19 audio recording and the GD Member's partial transcript on pages GD23-2 to GD23-4.

been considered in order to approve the claim for the maximum 15 weeks of benefits, starting February 18, 2018.

– **Other reasons for delay presented by the Claimant**

[74] I asked the Claimant why she waited until September 17, 2019, before enquiring about her entitlement to additional benefits. She replied, “simultaneously to this time frame and beyond I was in full capacity with my Human Rights claim.”⁶⁵ She explains how she acted for more than 1.5 years as a self-representative, during this Human Rights claim.⁶⁶

[75] The Claimant also speaks of her involvement with a wrongful dismissal claim against her former employer. She says this is still pending before the Saskatchewan Court of Queens Bench. In addition, she speaks about a claim at Employment Standards.⁶⁷

[76] Choosing to focus her efforts on pursuing claims through other courts doesn’t show good cause for the delay in claiming sickness or regular EI benefits.

Has the Claimant shown good cause for the delay in requesting sickness and regular benefits?

[77] No, the Claimant hasn’t shown good cause for the entire period of delay in requesting sickness or regular benefits.

[78] After careful consideration of the totality of the evidence before me, I find the Claimant didn’t make reasonable prompt steps to contact the Commission to clarify her interpretation of the Act or her rights and obligations under the Act. Nor has she shown she acted as a reasonable and prudent person would have acted in similar circumstances.⁶⁸

⁶⁵ See the last paragraph on page GD43-36.

⁶⁶ See page GD43-34.

⁶⁷ See pages GD43-34 and GD43-36.

⁶⁸ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

[79] I don't accept that the Claimant's circumstances were exceptional because she acted based on her own assumptions. I acknowledge that this is first claim she established for EI benefits. But there is evidence the Claimant knew how to contact the Commission to clarify her entitlement, as she did shortly after submitting her initial claim to request her benefit period be antedated to February 18, 2018.

[80] The Claimant must show she took reasonable prompt steps to confirm her personal beliefs and any information obtained from other sources, with the Commission, which she hasn't done. This obligation involves a duty of care that is both demanding and strict.⁶⁹

[81] In this case the Claimant made no efforts to claim additional sickness benefits until February 6, 2019, when she attempted to complete another report claim for sickness benefits. This is 5 months after she says she became available to work again as of August 31, 2018. After the claim reports rejected on February 6, 2019, she waited another seven months, until September 17, 2019, before contacting the Commission to enquire about her entitlement to additional sickness benefits.

[82] Despite her ongoing contact with the Commission, the Claimant doesn't ask for payment of regular benefits until January 14, 2021. I recognize on December 29, 2019, the Claimant began writing letters to the Commission requesting an investigation into the multiple ROEs issued by her employer, listing various reasons for separation. But she doesn't ask to receive payment of regular benefits.

[83] Throughout the letters, she wrote to the Commission, the Claimant comments on the issues regarding the ROEs issued by her employer. But she doesn't ask to be paid regular benefits. Instead, she makes arguments based on her own assumptions and self-determination that she was forced out of the system or wasn't entitled to additional benefits.⁷⁰

⁶⁹ See *MR v Canadian Employment Insurance Commission (CEIC)*, 2019 SST 1292.

⁷⁰ See pages GD2-55 to GD2-87, GD43-26, and GD43-31.

[84] As stated above, acting on her own assumptions, or focusing on claims through other courts, is not good cause. So in this case, it can't be said that the Claimant did what a reasonable and prudent person would have done in the same circumstances. Nor has she proven she acted like a reasonable and prudent person placed in the same circumstances, during the entire period of delay.

[85] I sympathize with the Claimant given the circumstances she presented. Although the Claimant may perceive this as an unjust result, my decision is not based on fairness. Rather, my decision is based on the facts before me and the application of the law. There are no exceptions and no room for discretion. I cannot interpret or rewrite the law in a manner that is contrary to its plain meaning, even in the interest of compassion.⁷¹

Conclusion

[86] The appeal is dismissed.

Linda Bell

Member, General Division – Employment Insurance Section

⁷¹ *Canada (Attorney General) v Knee*, 2011 FCA 301.