



Citation: *IW v Canada Employment Insurance Commission*, 2023 SST 204

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: I. W.

Respondent: Canada Employment Insurance Commission
Representatives: Melanie Allen and Gilles-Luc Bélanger

Decision under appeal: General Division decision dated November 27, 2022
(GE-22-2429)

Tribunal member: Shirley Netten

Decision date: February 24, 2023
File number: AD-22-942

Decision

[1] Leave to appeal is granted and the appeal is allowed. I. W. (the Claimant) can receive employment insurance (EI) regular benefits backdated to May 23, 2021. This means that he can receive another six weeks of benefits.

Overview

[2] The Claimant applied for sickness benefits in April 2021. He received sickness benefits for 7 weeks. In July 2021, the Claimant asked to have regular benefits backdated to the end of his sickness benefits. This request was initially denied in September 2021. In March 2022, Service Canada reviewed the request and accepted backdated claims from July 11 to August 7, 2021, as well as claims from March 13 to April 2, 2022 (7 weeks of regular benefits in total).

[3] In his request for reconsideration, the Claimant asked to “receive regular benefits from the point in time when my Sickness Benefits had expired.” His May 26, 2022 conversation with a Service Canada agent referenced the entire retroactive period. Service Canada’s reconsideration decision, dated June 21, 2022, simply said that it was maintaining its decision.

[4] The Claimant appealed to this Tribunal’s General Division. The General Division allowed his appeal, but did not clearly outline the issues or the benefits that were approved. Because the dates of August 8, 2021 to March 12, 2022 were mentioned, Service Canada paid benefits for this period only (30 weeks of regular benefits).

[5] The Claimant asked to appeal to the Appeal Division.

The parties agree on the outcome of the appeal

[6] The Claimant and the Commission agree to a decision:

- giving the Claimant permission to appeal;
- allowing the appeal;

- finding that the General Division made an error of law, specifically a failure to give adequate reasons;
- accepting the Claimant's request to receive regular benefits dating back to May 23, 2021; and
- confirming that the Claimant will receive another six weeks of benefits, reaching the maximum 50 weeks under this claim.

I accept the proposed outcome

[7] The law says that the General Division must give reasons for its decision.¹ Inadequate reasons can be an error of law.²

[8] Reasons for decision that don't allow the reader to know what decision was made are inadequate. Here, the reasons did not say whether the General Division had decided that the Claimant could receive benefits back to August 8, 2021, or further back to May 23, 2021. The General Division might have considered and allowed the May to July 2021 period, or it might not have. The issues were poorly stated and the outcome was uncertain. This was an error of law.

[9] I also accept the parties' agreement that the Claimant can receive benefits back to May 23, 2021, based on evidence of good cause. Having already received 44 weeks of benefits under this claim, the Claimant can now receive an additional six weeks of benefits. This brings him to the maximum 50 weeks of benefits payable in the benefit period.³

¹ Section 54(2) of the *Department of Employment and Social Development Act*

² See, for example, *Doucette v Canada (Minister of Human Resources Development)*, 2004 FCA 292.

³ See section 12(6) of the *Employment Insurance Act*.

Conclusion

[10] Leave to appeal is granted and the appeal is allowed. The Claimant can receive EI regular benefits backdated to May 23, 2021. This means that he can receive another six weeks of benefits.

Shirley Netten
Member, Appeal Division