



Citation: *FA v Canada Employment Insurance Commission*, 2023 SST 747

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

Decision

Appellant: F. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (547647) dated October 26, 2022 (issued by Service Canada)

Tribunal member: Amanda Pezzutto

Type of hearing: In person

Hearing date: March 2, 2023

Hearing participant: Appellant

Decision date: March 8, 2023

File number: GE-22-3684

Decision

[1] F. A. is the Appellant. The Canada Employment Insurance Commission (Commission) made decisions about his Employment Insurance (EI) benefits. The Appellant is trying to appeal these decisions to the Social Security Tribunal (Tribunal).

[2] I must dismiss the Appellant's appeal. He isn't trying to appeal the Commission's decision about whether he quit his job. But I don't have the power to make any decisions about the issues he is really trying to appeal. This is because the Commission has to make reconsideration decisions on these issues first.

Overview

[3] The Appellant stopped working and applied for EI benefits. The Commission decided that he had quit his job and that he didn't have just cause for quitting. So, the Commission said the Appellant couldn't get EI benefits. The Appellant asked the Commission to reconsider its decisions. The Commission reviewed its decisions and changed its mind. The Commission decided that the Appellant hadn't really quit his job. So, the Commission said the Appellant could get EI benefits.

[4] The Appellant has appealed to the Tribunal. He wants the Tribunal to make decisions about his weekly benefit rate. He also wants the Tribunal to award damages. This is because he says the Commission took too long to make a reconsideration decision.

[5] The Commission says it hasn't reconsidered its decision about the Appellant's weekly benefit rate. So, it says the Tribunal doesn't have the authority to hear an appeal on this issue.

Issues

[6] I must decide if the law gives me the power to hear this appeal. To make this decision, I will look at the following questions:

- Is the Appellant trying to appeal the Commission's decision about voluntary leaving?
- Which decisions is the Appellant trying to appeal?
- Do I have the authority to hear an appeal on these issues?

Analysis

Is the Appellant trying to appeal the Commission's decision about voluntary leaving?

[7] The Appellant isn't trying to appeal the Commission's decision about voluntary leaving. Both the Appellant and the Commission agree that the Appellant didn't quit his job.

[8] After the Appellant first applied for EI benefits, the Commission decided that the Appellant couldn't get EI benefits. This is because the Commission's first decision was that the Appellant had quit his job without just cause.

[9] The law says you can ask for a reconsideration if you disagree with any of the Commission's decisions.¹ So, the Appellant asked the Commission to reconsider its decision.

[10] The Commission reviewed its decision and changed it. The Commission said it agreed with the Appellant. The Commission said the Appellant didn't quit his job and so he could get EI benefits.

[11] This means that the Appellant and the Commission agree about the reconsideration decision. They both agree that the Appellant didn't quit his job. At the hearing and at a case conference, the Appellant said he isn't trying to appeal this decision.

¹ Section 112 of the *Employment Insurance Act*.

[12] So, I won't make any decisions about whether the Appellant quit his job. I won't look at that issue in this appeal.

What is the Appellant trying to appeal?

[13] At the hearing and at the case conference, the Appellant explained which decisions of the Commission he wants to appeal:

1. The Appellant disagrees with the Commission's calculation of his weekly benefit rate. He thinks the weekly benefit rate should be higher.
2. The Appellant thinks the Commission should pay him damages. He thinks the Commission made mistakes and took too long to make the original decision about whether he quit his job.

[14] So, now I must look at whether the law gives me the authority to make a decision on either of these issues.

Can I hear an appeal of either of these two issues?

[15] I can't hear an appeal or make a decision on either of the two issues the Appellant is trying to appeal.

[16] You have to follow a process when you disagree with a decision about your EI benefits. First, you have to ask the Commission to review its decision. This is called a reconsideration.² If you still disagree with the Commission's decision after the reconsideration, you can appeal to the Tribunal.³

[17] You can't skip the reconsideration step. You can't ask the Tribunal to make a decision about your EI benefits before the Commission reconsiders its decision. If the Tribunal tries to make a decision on an issue before the Commission does a reconsideration, then the Tribunal is exceeding its jurisdiction. This is an error. The Tribunal isn't allowed to do this.

² Section 112 of the *Employment Insurance Act*.

³ Section 113 of the *Employment Insurance Act*.

[18] Another way of saying this is that the Tribunal doesn't have the authority to make a decision on an issue before the Commission does a reconsideration of that issue.

[19] I understand that the Appellant says he has asked the Commission to reconsider its decision about his weekly benefit rate. He gave me copies of two reconsideration requests on this issue during the hearing.

[20] But there isn't any evidence in the appeal file that shows me that the Commission has taken any steps with these requests. I have no evidence showing that the Commission has made a reconsideration decision about the Appellant's weekly benefit rate.

[21] Without a reconsideration decision, I don't have the authority to make any decisions. This means I can't make any decisions about the Appellant's weekly benefit rate.

[22] And the law doesn't give me the power to order damages. Even if the Commission misled the Appellant, gave him incorrect advice, or somehow made a mistake with his EI benefits, the law simply doesn't give me or anyone else with the Tribunal this kind of power.⁴

[23] This means I can't make any appeal decisions about either of the two issues the Appellant is asking me to consider. The Appellant must ask the Commission to reconsider these two decisions before he can bring an appeal to the Tribunal.

[24] The Appellant gave me copies of the two reconsideration requests he has already submitted to the Commission. Tribunal staff have added these to the appeal file. I ask that the Commission review his reconsideration requests. If the Appellant still disagrees with the Commission's decisions after it finishes the reconsideration process, he can bring a new appeal to the Tribunal.

⁴ For example, see *Granger v Employment and Immigration Commission*, A-684-85 affirmed by the Supreme Court in *Granger v Canada (Canada Employment and Immigration Commission)*, [1989] 1 SCR 141. Also see *Canada (Attorney General) v Gladis*, A-815-96.

Conclusion

[25] I am dismissing the Appellant's appeal. This is because I don't have the authority to make decisions on the two issues he is trying to appeal. The Appellant must ask the Commission to reconsider its decisions before he can bring an appeal to the Tribunal.

Amanda Pezzutto
Member, General Division – Employment Insurance Section