



[TRANSLATION]

Citation: *HG v Canada Employment Insurance Commission*, 2023 SST 941

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: H. G.

Respondent: Canada Employment Insurance Commission
Representative: Anick Dumoulin

Decision under appeal: General Division decision dated
March 22, 2023 (GE-22-3663)

Tribunal member: Pierre Lafontaine

Type of hearing:

Decision date: July 20, 2023

File number: AD-23-429

Decision

[1] Permission to appeal is given, and the appeal is allowed.

Overview

[2] On December 10, 2021, the Applicant (Claimant) stopped working because she refused to provide a COVID-19 vaccination attestation in accordance with the employer's policy.

[3] The Respondent (Commission) found that the Claimant was suspended because of misconduct. It could not pay her Employment Insurance (EI) benefits. The Claimant asked the Commission to reconsider, but it upheld its initial decision. The Claimant appealed to the General Division.

[4] The General Division found that the Claimant stopped working because of misconduct under the law. It found that the Claimant could not receive EI benefits for that period.

[5] In support of her application for permission to appeal, the Claimant argues that the General Division did not decide an issue that it should have decided. She argues that, when the General Division disentitled her "for that period," it did not consider the evidence that, in May 2022, she qualified with additional hours of insurable employment.

[6] I am giving permission to appeal and allowing the Claimant's appeal.

Issues

[7] Should permission to appeal be given?

[8] Did the General Division fail to exercise its jurisdiction?

Analysis

[9] After reviewing the file, I decided to hold a settlement conference.

[10] The Claimant does not dispute the General Division's decision on the issue of misconduct. However, she argues that the General Division did not decide an issue that it was asked to decide. She argues that, when the General Division disentitled her "for that period," it did not consider the evidence that, in May 2022, she qualified with additional hours of insurable employment.

[11] The Commission acknowledges that the Claimant worked for other employers after the beginning of her suspension period and that she accumulated enough hours of insurable employment to receive benefits from May 1, 2022.

[12] The Commission says that it recommended to the General Division that the disentanglement be maintained from December 13, 2021, and that it end on April 29, 2022, when the Claimant met the condition set out in section 31(c) of the *Employment Insurance Act* (EI Act).¹ The Commission agrees that the disentanglement should not be "for that period."

[13] In my view, the General Division should have considered the Claimant's evidence and the Commission's submissions to make the appropriate finding regarding the period of disentanglement.

[14] For the above reasons, I find that I should give permission to appeal and allow the appeal.

Conclusion

[15] Permission to appeal is given, and the appeal is allowed.

[16] The Claimant's disentanglement is maintained from December 13, 2021, and ends on April 29, 2022, when the Claimant met the condition set out in section 31(c) of the EI Act.

Pierre Lafontaine
Member, Appeal Division

¹ See GD4-8.