



Citation: *HR v Canada Employment Insurance Commission*, 2023 SST 846

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: H. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (545787) dated December 2, 2022 (issued by Service Canada)

Tribunal member: Laura Hartsliel

Type of hearing: Videoconference

Hearing date: March 20, 2023

Hearing participants: Appellant
Ms. Iqbal, Interpreter

Decision date: March 22, 2023

File number: GE-23-142

Decision

[1] The appeal is dismissed. This means that the Tribunal does not agree with the Appellant.

Overview

[2] The Appellant was living in Quebec and stopped working on May 20, 2022. He then received sickness benefits from June 5, 2022, to July 16, 2022.

[3] On September 9, 2022, the Commission learned that the Appellant had moved to Ontario and was cleared to return to light duty work as of June 30, 2022. The Commission then decided that, beginning on June 30, 2022, the Appellant would not otherwise have been available for work were it not for his illness. This decision resulted in an overpayment of benefits from June 30, 2022, to July 16, 2022, in the amount of \$1,481.00.

[4] The Commission upheld its decision upon reconsideration, but also found that the Appellant was disentitled to sickness benefits starting June 30, 2022, because he was not unable to work due to an illness or injury at that time.

[5] The Appellant says that he should be entitled to sickness benefits from June 30, 2022, onwards. He disagreed with the Commission's findings and appealed to the Social Security Tribunal.

Preliminary Issues

[6] The Appellant was provided with an Interpreter at the hearing.

[7] The hearing took place over video conference. At the hearing, the Appellant held up two medical documents to the camera for me to see. These two documents were not in the Commission's documents. Even though the Appellant said that he sent these documents to Commission, they were not contained in the Commission's documents, which suggests to me that they were not submitted.

[8] The first document is a one-page, type-written medical note dated June 19, 2022, from a clinic in Quebec. The note contains two type-written French sentences which confirm that the Appellant can be off work for 2 weeks but then return to regular work after that. The second document is a hand-written note on a prescription pad from an Ontario medical clinic. The note is dated June 26, 2022, and says that the Appellant may work light duties, but no pushing, pulling, carrying or lifting.

[9] As these documents appear to support the Commission's submissions that the Appellant was capable of returning to work after June 30, 2022, I did not require the Appellant to send me these documents and I did not inform the Commission that they were discussed at the hearing.

Issue

[10] I must decide whether the Appellant is disentitled from receiving EI sickness benefits after June 30, 2022.

Analysis

[11] In order to establish that he is entitled to EI sickness benefits after June 30, 2022, the Appellant has to prove that he was unable to work due to an illness or injury for that period.¹ For the following reasons, I find that the Appellant has failed to establish that he was unable to work because of illness or injury after June 30, 2022.

[12] First, the Appellant's medical notes simply do not establish that he was unable to work due to an illness or injury for the period after June 30, 2022. The medical note the Appellant submitted to the Commission is dated June 30, 2022, and says the Appellant "may work on light duties". On its face, this medical note establishes that the Appellant could return to work on light duties starting June 30, 2022. Also, the two medical notes the Appellant showed me at the hearing both say that he can return to work for that same time period, albeit with some physical restrictions. Based on the evidence before

¹ Section 18(1)(b) of the *Employment Insurance Act*

me, I am not satisfied that the Appellant's medical documentation proves that he was unable to work due to an illness or injury after June 30, 2022.

[13] Also, while I understand from the Appellant's testimony that he was unable to find work for a short period after June 30, 2022, I find that this was not due to any illness or injury. Instead, the Appellant could not find work due to his lack of communication skills. At the hearing, the Appellant described applying for various customer service and managerial jobs after June 30, 2022. The Appellant also described having a managerial job interview where he was not hired for the reasons already stated. Ultimately, the Appellant found work in September 2022, as a part-time driver.

[14] Based on the Appellant's own testimony and the contents of his medical notes, I find that the Appellant was not incapable of returning to work due to an illness or injury beginning June 30, 2022. While he might not have been able to return to the manual labour of his original job, he was capable of working light duties and ultimately found work as a driver.

[15] As the Appellant has failed to establish that he was unable to work after June 30, 2022, due to an injury or illness, the appeal must be dismissed.

Conclusion

[16] The appeal is dismissed.

Laura Hartsliet
Member, General Division – Employment Insurance Section