



[TRANSLATION]

Citation: *PC v Canada Employment Insurance Commission*, 2023 SST 1180

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

## Decision

**Appellant:** P. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (565569) dated January 20, 2023 (issued by Service Canada)

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**Tribunal member:** Charline Bourque

**Type of hearing:** Videoconference

**Hearing dates:** May 16, 2023

**Hearing participants:** Appellant

**Decision date:** June 9, 2023

**File number:** GE-23-611

## Decision

[1] The appeal is dismissed.

[2] The Claimant hasn't shown that she had good cause for the delay in claiming Employment Insurance (EI) benefits. In other words, the Claimant hasn't given an explanation that the *Employment Insurance Act* (Act) accepts. This means that the Claimant's claim can't be treated as though it was made earlier.

## Overview

[3] When a claimant makes a claim for benefits—other than an initial claim—after the deadline, the claim must be considered as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period between the day the claim was made and the day from which they want to receive benefits.

[4] The Claimant renewed her claim after the deadline. She now wants it to be treated as though it was made earlier, on June 8, 2022.

[5] For this to happen, the Claimant has to prove that she had good cause for the delay.

[6] The Commission decided that the Claimant didn't have good cause and refused the Claimant's request. The Commission says that the Claimant doesn't have good cause because she hasn't shown that she was unable to manage her EI file in June 2022. She made efforts to go back to her old job and was looking for jobs. These actions show that the Claimant was fit to manage her affairs, including her EI file. She didn't provide a medical note saying she was exhausted and unable to function properly. The Claimant can't impose these reasons for the delay on taxpayers.

[7] The Claimant disagrees and says that she was having a particularly difficult time. She says she was overwhelmed and under a lot of stress. She lost her job, which upset her, and she made multiple efforts to get it back. Her children had to change schools

and she had to care for her mother, in addition to being the liquidator after her aunt's death. She was experiencing mental fatigue and low energy. Also, she wasn't sure she was entitled to EI because of the inheritance from her aunt. Finally, the Claimant points out that the situation has significant financial impacts on her family.

## **Matter I have to consider first**

### **Other antedate request for the period from October 14, 2022, to November 7, 2022**

[8] The Claimant explains that she applied for EI benefits after a new disruption of employment. She says that she stopped working on October 14, 2022, but that she was unable to make a claim before November 18, 2022, because her file was blocked. Because of these difficulties, she wanted her claim to start on October 14, 2022, and not on November 13, 2022, as is currently the case. She said that the Commission had confirmed to her that notes in her file would allow her to start her claim on October 14, 2022.

[9] I checked with the Commission and it said that it hasn't made a decision on an antedate request for the period from October 14, 2022, to November 7, 2022.<sup>1</sup>

[10] So, the Commission may have to make a decision about this, but the Claimant has to make sure that an antedate request was made, since the Commission seems to be implying the opposite in its arguments.

[11] Unfortunately, I am unable to make a decision for this period, since the Commission hasn't made a decision.

## **Issue**

[12] Did the Claimant have good cause for the delay in claiming EI benefits?

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<sup>1</sup> See the Commission's supplementary information to the Tribunal (GD6).

## Analysis

[13] The Claimant wants her claim for EI benefits to be treated as though it was made earlier, on June 8, 2022. This is called antedating (or, backdating) the claim.

[14] To get a claim antedated, the Claimant has to prove that she had good cause for the delay during the entire period of the delay.<sup>2</sup> The Claimant has to prove this 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 delay.

[15] And, to show good cause, the Claimant has to prove that she acted as a reasonable and prudent person would have acted in similar circumstances.<sup>3</sup> 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.

[16] The Claimant also has to show that she took reasonably prompt steps to understand her entitlement to benefits and obligations under the law.<sup>4</sup> This means that the Claimant has to show that she tried to learn 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.<sup>5</sup>

[17] The Claimant has to show that she acted this way for the entire period of the delay.<sup>6</sup> This period is from the day she wants her claim antedated to until the day she actually made the claim. So, for the Claimant, the period of delay is from June 8, 2022, to August 18, 2022.

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<sup>2</sup> See *Paquette v Canada (Attorney General)*, 2006 FCA 309; and section 10(5) of the *Employment Insurance Act*.

<sup>3</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

<sup>4</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

<sup>5</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

<sup>6</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

[18] The Claimant says that she had good cause for the delay because she was overwhelmed and under a lot of stress. She lost her job, which upset her, and she made multiple efforts to get it back. Her children had to change schools and she had to care for her mother, in addition to being the liquidator after her aunt's death. She was experiencing mental fatigue and low energy. Also, she wasn't sure she was entitled to EI because of the inheritance from her aunt.

[19] The Commission says that the Claimant hasn't shown good cause for the delay because the Claimant hasn't shown that she was unable to manage her EI file in June 2022. She made efforts to go back to her old job and was looking for jobs. These actions show that the Claimant was fit to manage her affairs, including her EI file. She didn't provide a medical note saying she was exhausted and unable to function properly.

[20] I find that the Claimant hasn't proven that she had good cause for the delay in applying for benefits.

[21] I agree with the Claimant that she was overwhelmed and going through a difficult time in her life. I understand that it was a turbulent and difficult period that caused her a lot of stress.

[22] Also, the Claimant wasn't sure that she was entitled to EI benefits because of her inheritance. She did some internet research to find out whether she was entitled, but she didn't try to contact the Commission to find out.

[23] I also understand that the Claimant found it difficult getting let go and that she tried to get that job back. Still, there was nothing stopping her from applying for EI during that time.

[24] The Claimant was exhausted and under a lot of stress. But she confirms that she continued to look after the estate and her family. And she was trying to get her job back while looking for another job. She didn't want to see a doctor to avoid hurting her job search.

[25] I understand that this would have created a lot of stress for anyone. But it doesn't exempt her from a claimant's obligations under the Act. The Claimant didn't contact the Commission because she was certain she would not be entitled to benefits because of her inheritance. It wasn't until after the start of the school year, when she felt things had calmed down, that she thought about applying for EI.

[26] In my view, the Claimant didn't do what a reasonable and prudent person would have done in the circumstances. I understand that time is short and that she was dealing with a lot, but the Claimant had an obligation to make efforts to find out whether she was entitled to benefits.<sup>7</sup> She didn't try to get the necessary information from the Commission. Also, the fact that she didn't believe she was entitled or that she was ignorant of the Act isn't good cause under the Act.

## **Conclusion**

[27] The Claimant hasn't proven that she had good cause for the delay in making her claim for benefits throughout the entire period of the delay. This means that her claim can't be treated as though it was made earlier.

[28] The appeal is dismissed.

Charline Bourque  
Member, General Division – Employment Insurance Section

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<sup>7</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.