



[TRANSLATION]

Citation: *ES v Canada Employment Insurance Commission*, 2023 SST 1289

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

Decision

Appellant: E. S.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (530270) dated December 5, 2022 (issued by Service Canada)

Tribunal member: Guillaume Brien
Type of hearing: Videoconference
Hearing date: March 24, 2023
Hearing participant: Appellant
Decision date: April 3, 2023
File number: GE-22-3922

Decision

[1] The appeal is dismissed. The Appellant received an additional \$2,000 that he isn't eligible for.

Overview

[2] On March 20, 2020, the Claimant made an initial claim for Employment Insurance (EI) benefits. An Employment Insurance Emergency Response Benefit (EI ERB) claim was made effective March 15, 2020.

[3] Since the Claimant was eligible for the EI ERB, he received an initial \$2,000 advance payment once his claim was established. That payment was made to him on April 6, 2020. The \$2,000 is an advance payment made before it usually would be, and is the equivalent of four weeks of EI ERB payments.

[4] The Commission says that the Claimant received a \$2,000 advance payment, which was for four weeks of the EI ERB. It says that he was overpaid because he also received EI ERB of \$500 per week for 12 weeks, from March 15, 2020, to June 6, 2020. An overpayment was issued because he received more than he was eligible for.

[5] The Claimant confirms that he received the initial EI ERB advance of \$2,000. He also confirms that this is an overpayment. But, he disputes the Commission's decision not to reconcile the \$2,000 debt with the weeks when he didn't apply for EI benefits. He doesn't want to repay the \$2,000 overpayment.

Issue

[6] Does the Claimant have to repay the \$2,000 overpayment he received?

Analysis

[7] The law says that the EI ERB is payable to a claimant who makes a claim and is eligible for the benefit.¹ The amount of the EI ERB for a week is \$500.² The Commission is allowed to pay the EI ERB to claimants in advance.³

[8] A claimant isn't eligible if they receive, under this law, a benefit other than the EI ERB.⁴ A claimant is also required to pay back the amount if they received or obtained an EI ERB payment they weren't eligible for, or if it was more than they were entitled to.⁵

The Claimant was overpaid \$2,000 (EI ERB payment)

[9] The Claimant agrees that he received \$2,000 in EI ERB issued by the Commission around April 6, 2020.

[10] The Claimant also agrees that this EI ERB payment was overpaid to him because he was receiving regular EI ERB at the same time.

[11] So, I find that the Claimant was overpaid \$2,000. This is consistent with the evidence on file and his testimony.

[12] The Commission has the power to review EI claims and assess whether a claimant has been overpaid.⁶ In this case, the Claimant received too many EI ERB payments. This means that he is responsible for paying back the overpayment.

[13] At the hearing, the Claimant said that he wanted his debt to be reconciled and that he didn't want to pay back the \$2,000. I don't have the authority to do so. Only the

¹ See section 153.1 of the *Employment Insurance Act (Act)*.

² See section 153.10(1) of the Act.

³ See section 153.7(1.1) of the Act.

⁴ See section 153.9(2) of the Act.

⁵ See section 44 of the Act.

⁶ See section 52(1) of the Act.

Commission has the power to write off an overpayment if it decides that it causes undue hardship.⁷

Conclusion

[14] The appeal is dismissed. The Claimant was overpaid in EI ERB.

Guillaume Brien
Member, General Division – Employment Insurance Section

⁷ See section 56 of the *Employment Insurance Regulations*.