



[TRANSLATION]

Citation: *WP v Canada Employment Insurance Commission*, 2023 SST 1714

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

Decision

Appellant: W. P.
Representative: David Lacoursiere

Respondent: Canada Employment Insurance Commission
Representative: Jessica Grant

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (25547078) dated
December 31, 2021 (issued by Service Canada)

Tribunal member: Josée Langlois

Type of hearing: In writing
Decision date: October 23, 2023
File number: GE-22-65

Decision

[1] The appeal is dismissed.

[2] The Appellant has abandoned his appeal and the file will be closed.

Overview

[3] The Appellant applied for EI benefits on October 8, 2020.

[4] On June 9, 2021, the Canada Employment Insurance Commission (Commission) told the Appellant that it could not pay him benefits from October 5, 2020, because he was not available for work. The Commission says that he was taking training on his own initiative and that he did not show that he was available for work. But, it is of the view that the Appellant proved his availability for work during the break from March 1 to March 5, 2021.

[5] On July 15, 2021, the Appellant filed an appeal with the Tribunal. On September 3, 2021, the General Division issued a decision. It decided that the Appellant was available for work while taking training and that he could receive benefits from October 5, 2020.

[6] On September 23, 2021, the Commission applied for permission to appeal to the Tribunal's Appeal Division. After granting permission to appeal, the Appeal Division issued a decision on December 30, 2021, allowing the Commission's appeal. The Appeal Division found that the Appellant was not available for work from October 5, 2020, except for the period from March 1, 2020, to March 5, 2021. Since the Appellant raised other grounds of appeal, such as promissory estoppel, the Appeal Division returned the file to the General Division to deal with this issue.

[7] This file before the General Division, dealing with the Appellant's other grounds of appeal, was suspended because the Appellant challenged the Appeal Division decision on availability before the Federal Court of Appeal.

[8] On July 27, 2023, the Federal Court of Appeal granted the Appellant's application, set aside the Appeal Division decision, and reinstated the General Division decision.¹

[9] The Court found that the Appeal Division had unreasonably interpreted precedents about the availability of full-time students. It also found that the Appeal Division had no jurisdiction to interfere in the General Division's findings of fact or of mixed fact and law because they were not perverse, capricious, or made without regard to the material that was before the General Division.

[10] Once the deadline had passed for applying for permission to appeal to the Supreme Court of Canada, the Tribunal sent a letter to the Appellant indicating that this file would be closed. A period to make submissions, if needed, was granted until October 20, 2023.

[11] On October 23, 2023, the parties had not provided any submissions.

Issues

[12] Did the Appellant abandon his appeal?

Analysis

[13] The Appellant abandoned his appeal about other grounds of appeal. The Court's July 27, 2023, decision about his availability for work was favourable to him.

[14] The Court reinstated the General Division decision, which means the Appellant is entitled to benefits from October 5, 2020.

[15] As a result, it is no longer necessary to decide the Appellant's other grounds of appeal.

[16] For these reasons, I find that the Appellant is abandoning his appeal.

¹ See *Page*, 2023 FCA 169.

Conclusion

[17] The appeal is dismissed and the file will be closed.

Josée Langlois
Member, General Division – Employment Insurance Section