



[TRANSLATION]

Citation: *PR v Canada Employment Insurance Commission*, 2023 SST 1654

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: P. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (574894) dated April 4, 2023
(issued by Service Canada)

Tribunal member: Josée Langlois

Type of hearing: In person

Hearing date: July 17, 2023

Hearing participant: Appellant

Decision date: July 24, 2023

File number: GE-23-1284

Decision

[1] The appeal is allowed.

[2] The Appellant has shown that he had good cause for the delay in submitting his claimant reports between September 4, 2022, and September 13, 2022. In other words, he has given an explanation that the Act accepts.

Overview

[3] The Appellant applied for benefits on October 21, 2021. On September 13, 2022, he tried to submit his claimant report for the period starting July 31, 2022, but that attempt failed because he had until September 3, 2022, to do so.

[4] On September 14, 2022, the Appellant asked the Canada Employment Insurance Commission (Commission) to have his claimant report considered as having been submitted on July 31, 2022. He explained that this was an oversight.

[5] For this to happen, the Appellant has to show that he had good cause for the delay in submitting his claimant reports for the entire period of the delay—September 4, 2022, to September 13, 2022.

[6] The Commission decided that the Appellant hadn't shown good cause for the delay in submitting his claimant reports and refused his request.

[7] The Appellant disagrees. He says that he regrets his oversight and that the Commission is strict. He says that he has been a bus driver for many years, that he isn't a careless person, that he is only claiming benefits for a few weeks a year, and that denying him benefits greatly affects his financial situation.

[8] I have to decide whether the Appellant has a reasonable explanation for his delay in submitting his claimant report by the deadline.

Issue

[9] Did the Appellant have a reasonable explanation for the delay in submitting his claimant report between September 4, 2022, and September 13, 2022?

Analysis

[10] The Appellant wants his claim for Employment Insurance (EI) benefits to be treated as though he had filed his claimant report between July 31, 2022, and September 3, 2022.

[11] For a claimant report to be considered as having been submitted earlier than when it was actually submitted, the Appellant has to prove that he had good cause for the delay.¹ The Appellant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he had good cause for the delay.

[12] And, to show good cause, the Appellant has to prove that he acted as a reasonable and prudent person would have acted in similar circumstances.² In other words, he has to show that he acted reasonably and carefully just as anyone else would have if they were in a similar situation.

[13] The Appellant also has to show that he took reasonably prompt steps to understand his entitlement to benefits and obligations under the Act.³ This means that he has to show that he tried to learn about his rights and responsibilities as soon as possible and as best he could. If the Appellant didn't take these steps, then he has to show that there were exceptional circumstances that explain why he didn't do so.⁴

¹ See *Paquette v Attorney General of Canada*, 2006 FCA 309; and subsection 10(5) of the *Employment Insurance Act* (Act).

² See *Attorney General of Canada v Burke*, 2012 FCA 139.

³ See *Attorney General of Canada v Somwaru*, 2010 FCA 336; and *Attorney General of Canada v Kaler*, 2011 FCA 266.

⁴ See *Attorney General of Canada v Somwaru*, 2010 FCA 336; and *Attorney General of Canada v Kaler*, 2011 FCA 266.

[14] A claimant has three weeks to make a claim for benefits for a given week.⁵ They also have to submit a claimant report for every week they want benefits.⁶

[15] On September 13, 2022, the Appellant tried to submit a claimant report for the period from July 31, 2022, to September 3, 2022. The EI system didn't accept his claim because he was late and his deadline to do so had passed.

[16] The next day, the Appellant contacted Service Canada. He indicated that he had forgotten to submit his claimant report.

[17] He also explained that he waited to receive the earnings from his employer before submitting his report because he didn't want to make false statements. He explains that these earnings were paid to him late because he worked overtime.

[18] At the hearing, the Appellant explains that a Service Canada employee once told him to report the correct amounts so as not to make false statements. He says that this is why he waited to receive the correct amounts before submitting his claimant report. He also says that another employee told him during the reconsideration process that he could make a change to the earnings he had declared, and the Appellant understands this. But he explains that he got different information depending on the agent he asked.

[19] The Appellant also says that he forgot to file his claimant report at that time because he doesn't usually have a renewal claim for benefits like he did last year. The Appellant says that, since he received benefits from the CERB program for a certain period instead of the usual EI benefits, his benefit period didn't start at the same time of the year, so it didn't end at the same time. He says that, normally, when school starts again, he applies for benefits and files his first claimant report.

[20] The Appellant says that he is a bus driver and that he has applied for EI benefits every year for several years. But the claim in question was turned upside down due to the COVID-19 measures. He says that he is used to submitting his claimant reports, but

⁵ Subsection 26(1) of the *Employment Insurance Regulations*.

⁶ Section 49 of the Act.

that this time, since his benefit period was extended, he didn't receive any indication that he had to do something different and explains that he forgot to do it.

[21] The Appellant says that denying him those few weeks of benefits between July 31, 2022, and September 3, 2022, has significant consequences for his financial situation, and he disagrees with the Commission, which insists that he was negligent. The Appellant argues that he is a reliable and respectable bus driver.

[22] The Commission says that the Appellant's explanations don't show that, from July 31, 2022, to September 13, 2022, there was an insurmountable barrier preventing him from applying for benefits, like a serious illness, hospitalization, or confinement.

[23] It argues that the Appellant's explanations show that he simply forgot to submit his claimant reports and that he was negligent. For this reason, it says that a reasonable person in the same situation would have acted earlier.

[24] In addition, it argues that, if the Appellant didn't know that he had to submit his claimant reports by the deadline, ignorance of the Act also doesn't amount to good cause for delay.

[25] It is true that ignorance of the Act doesn't amount to good cause for a delay in submitting claimant reports. But, in this case, I agree with the Appellant. He is used to submitting his claimant reports, he does so every year, but this time he was at the end of a benefit period rather than the beginning, as is the case each year.

[26] In my view, there are exceptional circumstances that explain his delay in submitting his claimant reports. After receiving benefits under the CERB program, his benefit period was established at a different time, and he had to renew his benefit period. The Appellant initially pointed to his oversight. But it is important to keep in mind that it was mostly because he hadn't received the expected earnings from his employer that things didn't happen as they did every time he applied for benefits.

[27] Because the employer took longer to pay him overtime, the Appellant took longer to submit his claimant report.

[28] Also, while I understand the Commission's statement that the Appellant was notified of the deadline when he filed his claimant report for the week of August 3, 2022, given that his benefit period was being renewed at that time he didn't receive the information the same way he usually did. The Appellant waited for his earnings from his employer to avoid making false statements, and he explained to the Commission that it was an oversight.

[29] This means that the Appellant was 10 days late when he contacted the Commission. Even though the Commission says that the Appellant made no effort to ask about his rights and get information, the Appellant was waiting for his benefits, and he didn't give up his efforts—he was waiting for his earnings from the employer to make an accurate report. I accept his explanation as good cause for the delay.

[30] The Appellant wasn't several months late, he was a few days late, and I find that he has shown that he had a reasonable explanation for submitting his claimant reports late. Because of the exceptional circumstances related to the renewal of his benefit period, the Appellant, who is used to applying for benefits, had to deal with the renewal claim for benefits while waiting for his employer to pay him his earnings for the overtime hours he had worked. The Appellant didn't want to make false statements.

[31] The Appellant had to submit his claimant report by September 3, 2022, but he received his earnings late and tried to submit his report on September 13, 2022.

[32] Given the circumstances presented, I am of the view that the Appellant acted as a reasonable person would have in similar circumstances.

[33] The Appellant's explanations are reasonable, and I find that he had good cause for the delay in submitting his claimant reports between September 3, 2022, and September 13, 2022.

Conclusion

[34] The Appellant has shown that he had good cause for the delay in submitting his claimant reports throughout the entire period of the delay. This means that his claim can be treated as though his claimant reports were filed on time.

[35] The appeal is allowed.

Josée Langlois
Member, General Division – Employment Insurance Section