



[TRANSLATION]

Citation: *KL v Canada Employment Insurance Commission*, 2023 SST 1662

## **Social Security Tribunal of Canada Appeal Division**

# **Decision**

**Appellant:** K. L.

**Respondent:** Canada Employment Insurance Commission  
**Representative:** Julie Meilleur

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**Decision under appeal:** General Division decision dated May 4, 2023  
(GE-23-612)

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**Tribunal member:** Pierre Lafontaine

**Type of hearing:** Videoconference  
**Hearing date:** November 14, 2023  
**Hearing participant:** Appellant  
**Decision date:** November 21, 2023  
**File number:** AD-23-413

## Decision

[1] The appeal is allowed. The file returns to the General Division for a decision on the Claimant's availability for work as of March 6, 2022.

## Overview

[2] The Appellant (Claimant) established an initial claim for Employment Insurance regular benefits effective October 3, 2021. On August 10, 2022, the Claimant asked to change her original reports for the period from January 9, 2022, to June 25, 2022. She wanted to correct her report for the period in question because she wasn't capable of and available for work every day because of illness even though she had declared herself available for that period.

[3] The Claimant provided the Respondent (Commission) with medical evidence of a work stoppage for the period from December 12 to December 25, 2021. She provided further medical evidence to extend the leave to January 8, 2022, and for another work stoppage for the period from February 7 to March 5, 2022.

[4] On September 13, 2022, she was contacted by an investigator to verify her entitlement to benefits for the period between March and July 2022. The Claimant then said that she was available for work during that period.

[5] The Commission told the Claimant that benefits could not be paid as of March 6, 2022, because she hadn't submitted the requested documents. The Claimant appealed the Commission's decision.

[6] The General Division found that the Claimant hadn't shown that she was unable to work as of March 6, 2022. It found that the Claimant wasn't entitled to sickness benefits from that point forward.

[7] The Appeal Division gave the Claimant permission to appeal the General Division's decision. It argues that the General Division made an important error of fact. The Claimant says that she never applied for sickness benefits as of March 6, 2022,

except for the first week of July 2022. Instead, she says that she applied for regular benefits because of a shortage of work.

[8] I am allowing the Claimant's appeal. The file returns to the General Division for a decision on the Claimant's availability for work as of March 6, 2022.

## **Issue**

[9] Did the General Division fail to exercise its jurisdiction?

## **Analysis**

[10] The Claimant argues that the General Division made an error because she never applied for sickness benefits as of March 6, 2022. She acknowledges that the medical evidence shows that she wasn't capable of and available for work every day because of illness before March 6, 2022.

[11] The General Division found that the Claimant was capable of work as of March 6, 2022. It found that she wasn't entitled to sickness benefits from that point forward.

[12] The Commission issued a decision imposing a disentitlement on the Claimant for not providing medical evidence of her inability to work. However, at the hearing, the Claimant repeated what she had told the investigator. She testified that she was capable of work as of March 6, 2022, and that she had made efforts to find a job as of that date.

[13] On appeal, the Commission agrees that it should have considered the Claimant's intentions in this case in more detail from the moment she indicated that she hadn't been sick since March 6, 2022, and that she was available for work.

[14] The General Division must take a holistic approach to its jurisdiction, within the limits of the law, to manage appeals fairly and effectively. It is sometimes necessary to consider the underlying decisions to determine the true scope of the reconsideration

request.<sup>1</sup> Considering the circumstances of this case, the issue of the Claimant's availability for work as of March 6, 2022, was an underlying decision that helped to understand the true scope of the reconsideration request.

[15] The Commission recommends returning the file to the General Division for a decision under section 18(1)(a) of the *Employment Insurance Act* (EI Act) for the period in dispute. The Claimant agrees with the Commission's proposed remedy.

[16] For the reasons mentioned above, I am of the view that the appeal should be allowed and the file returned to the General Division.

## **Conclusion**

[17] The appeal is allowed. The file should be returned to the General Division for a decision under section 18(1)(a) of the EI Act on the Claimant's availability for work as of March 6, 2022.

Pierre Lafontaine  
Member, Appeal Division

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<sup>1</sup> *DS v Canada Employment Insurance Commission*, 2020 SST 773