



[TRANSLATION]

Citation: *GB v Canada Employment Insurance Commission*, 2023 SST 1893

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

Decision

Appellant: G. B.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (445864) dated May 16, 2023
(issued by Service Canada)

Tribunal member: Manon Sauvé
Type of hearing: Teleconference
Hearing date: July 12, 2023
Hearing participant: Appellant
Decision date: July 27, 2023
File number: GE-23-1485

Decision

[1] The appeal is dismissed.

[2] The Appellant has to pay back the \$2,000 he received as an advance payment of the Employment Insurance Emergency Response Benefit (EI ERB).

Overview

[3] The Appellant was a secretary at a school. On March 13, 2020, he lost his job because of the COVID-19 pandemic.

[4] The Government of Canada introduced a number of measures to help Canadians during the pandemic. It created the EI ERB program. Among other things, it allowed the Commission to issue an advance payment of \$2,000 to eligible claimants.

[5] The Appellant benefited from the program when he applied for benefits. So, a \$2,000 advance payment was issued to provide him with timely financial support.

[6] The Appellant stopped completing his reports after two weeks. He estimated his loss of income at about \$3,000, which was what he had received in benefits.

[7] After looking into it, the Commission asked the Appellant to pay back the \$2,000 advance payment. He hadn't completed his claims after two weeks and hadn't gone back to work.

[8] The Appellant disagrees. He didn't know he had received a \$2,000 advance payment. The Commission didn't tell him that it was an advance payment. In addition, he was entitled to receive this amount, since it matches the wages he lost during the COVID-19 pandemic.

Issue

[9] Does the Appellant have to pay back the \$2,000 EI ERB advance payment?

Analysis

[10] During the COVID-19 pandemic, the Government of Canada introduced various measures to help Canadians who had lost their jobs.

[11] The *Employment Insurance Act* (Act) was changed. Measures were put in place to facilitate access to financial support for those who had lost their jobs and were entitled to benefits.

[12] Claims made between March 15, 2020, and October 3, 2020, allowed eligible unemployed workers to get the EI ERB, which was \$500 per week.¹

[13] The Commission could give a four-week advance payment to claimants who had lost their jobs because of the pandemic.²

[14] Moreover, the Act gives the Commission the power to reconsider a claim for benefits within 36 months.³ This is what it did in the Appellant's case.

[15] I note that, on March 13, 2020, the Appellant was laid off from his job as a school secretary because of the COVID-19 pandemic. He applied for emergency benefits.

[16] On May 5, 2020, the Commission established a benefit period for the EI ERB. On May 11, 2020, the Commission gave the Appellant a \$2,000 advance payment to provide him with timely support.

[17] The Appellant testified that he stopped completing his claims for benefits two weeks later. He felt that he had received the amounts he was entitled to for his period of unemployment. As a part-time employee working 14 hours per week, he would have earned around \$3,640 between March 13, 2020, and June 21, 2020, the last day of school.

¹ See sections 153.5(2)(b) and 153.8(5) of the *Employment Insurance Act* (Act).

² See section 153.7(1.1) of the Act.

³ See section 52(1) of the Act.

[18] I also note that the Appellant didn't go back to work in the fall of 2020. He testified that he was a retiree who went back to work for a few years. He simply decided to stop working.

[19] The Appellant says that he should not have to pay the Commission back, since he wasn't told it was an advance payment of benefits. If the Commission made a mistake, he should not have to pay for it. And he acted in good faith.

[20] The Commission says that the Appellant has to pay back the \$2,000 advance payment. That payment is the equivalent of four weeks of benefits at \$500 per week. In addition, the Commission wasn't able to reconcile the advance payment with the weeks of unemployment, because the Appellant had decided not to go back to work.

[21] After reviewing the file, hearing the Appellant, and considering the parties' submissions, I am of the view that the Appellant has to pay back the \$2,000 advance payment he got from the Commission.

[22] The evidence shows that the Appellant got a \$2,000 advance payment of benefits. He decided to stop completing his claims for benefits after two weeks, feeling he had compensated for the wages he had lost while not working. In my view, he should have talked to the Commission about the consequences of that decision.

[23] Contrary to what the Appellant argues, the Commission didn't make a mistake. It had the power to issue an advance payment to help unemployed workers during the difficult times brought on by the pandemic.

[24] The Commission has shown that the Appellant was overpaid benefits. This is because he received an advance of four weeks of benefits and two weeks of benefits for completing his reports. This is the equivalent of six weeks of EI ERB, which amounts to \$3,000. By completing only two claims for benefits, the Appellant was entitled to \$1,000 in EI ERB.

[25] The Commission properly followed its policy for recovering overpayments. In addition, the Appellant said that he had decided not to go back to work; the Commission

could not reconcile his claim. And he had until December 2, 2020, to complete his claims for benefits to correct the situation.

[26] The law is clear: A claimant who has received money they aren't entitled to has to pay it back.⁴

[27] This means that the Appellant has to pay back the \$2,000 EI ERB advance payment he got from the Commission.

Conclusion

[28] I find that the Appellant has to pay back the \$2,000 EI ERB advance payment.

[29] The appeal is dismissed.

Manon Sauvé

Member, General Division – Employment Insurance Section

⁴ See sections 43 and 44 of the Act.