



Citation: *HM v Canada Employment Insurance Commission*, 2023 SST 1331

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

Decision

Appellant: H. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision dated (issued by Service Canada)

Tribunal member: Paul Dusome

Decision date: April 18, 2023

File number: GE-23-270

Decision

[1] The Tribunal denies an extension to time for the late filing of the Notice of Appeal by the Appellant. That means that the appeal will not proceed. There will be no hearing. The decision of the Commission remains unchanged. The reasons for this decision are set out in the following paragraphs.

Issue

[2] The Tribunal must decide whether to allow an extension of time for the Appellant to appeal.

[3] When deciding whether to allow further time to appeal, the Tribunal must consider and weigh the following criteria set out in law:

- a) The Appellant must demonstrate a continuing intention to pursue the appeal;
- b) The matter discloses an arguable case;
- c) There is a reasonable explanation for the delay; and
- d) There is no prejudice to the other party in allowing the extension.

The weight to be given to each of these criteria may differ in each case. The overriding consideration is that the interests of justice be served.

Analysis

[4] The Appellant applied for employment insurance sickness benefits on March 31, 2021. The Claimant received sickness benefits from March 7 to June 19, 2021. He then asked to convert to regular benefits. He received regular benefits from June 21 to October 23, 2021. He filed his weekly reports stating that he was available and looking for work. On November 10, 2021, the Appellant called the Commission to say that he had not been available from June 20th onwards. He had applied for disability benefits when his EI sickness benefits ran out. When he applied, he was told it would take four to six months to get his disability pension. He was told to apply for regular EI benefits,

then when he received his disability pension, to report receiving the pension to the Commission.

[5] The Commission decided on February 25, 2022, that the Appellant was not available for work from June 21, 2021. He had to repay the EI benefits he had received since June 21, 2021. On June 3, 2022, the Commission confirmed this decision at the reconsideration level. The Appellant appealed the reconsideration decision on January 26, 2023, beyond the 30-day time limit set by law.

[6] On March 21, 2023, the Tribunal asked the Appellant for more information about the late filing. The Tribunal asked for the reasons for filing the appeal late. The Tribunal referred to the Appellant's statements in the file about him not looking for work. The Tribunal asked for any information to prove that he was looking for work from June 21, 2021, to October 23, 2021. The letter gave April 3, 2023, as the date for a response. No response has been received to the date of this decision.

[7] In reviewing the Appellant's reasons for the late appeal in his Notice of Appeal, and reviewing the Commission's Reconsideration File, I am not satisfied that the Appellant had a continuing intention to pursue the appeal, or that he had a reasonable explanation for the delay.

[8] There is no prejudice to the Commission, as it has already responded to the appeal, and provided its documents in support of its position.

[9] There is not an arguable case in this appeal. The Appellant's statements to the Commission, in his request for reconsideration and in his notice of appeal, are all consistent. He was not looking for work from June 21 to October 23, 2021. He provided no other evidence in response to the Tribunal's March 21, 2023, request for more information. In emails to the Tribunal in January and February 2023, the Appellant talks about repaying the EI benefits.

[10] The interests of justice do not require that the Appellant be given a further opportunity to provide his evidence on this matter. The Appellant requested a hearing in writing. He has been given the opportunity to provide further evidence in response to

the Tribunal's letter dated March 21, 2023. He has not responded. As noted above, the facts in the file do not show an arguable case for a full hearing.

Conclusion

[11] The Appellant's request for an extension of time to file his appeal is denied. The result is that the appeal is dismissed. The decision of the Commission remains in place.

Paul Dusome
Member, General Division – Employment Insurance