



Citation: *RR v Canada Employment Insurance Commission*, 2022 SST 1294

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

**Decision**

**Appellant:** R. R.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (447508) dated September 1, 2022 (issued by Service Canada)

---

**Tribunal member:** Angela Ryan Bourgeois

**Type of hearing:** Teleconference

**Hearing date:** December 8, 2022

**Hearing participant:** Appellant

**Decision date:** December 14, 2022

**File number:** GE-22-3189

## Decision

[1] The appeal is dismissed.

[2] The Appellant (Claimant) was overpaid \$2,000 in Employment Insurance (EI) Emergency Response Benefits (ERB).<sup>1</sup> He must repay \$2,000.

## Overview

[3] The Claimant applied for EI benefits in May 2020.

[4] The Canada Employment Insurance Commission (Commission) accepted his application and paid him EI ERB benefits.

[5] The Commission paid the Claimant eight weeks of EI ERB benefits. It says he was only entitled to four weeks. It overpaid him \$2,000 (4 weeks x \$500 per week) by giving him an advance payment.

[6] The Claimant agrees he was overpaid \$2,000 in EI ERB. In fact, he tried to repay the overpayment when he received the money. Service Canada refused to take his cheque.

[7] The Claimant says he will repay the overpayment when he receives an updated account showing a reduced balance because of the income tax he's already paid.

[8] The Commission says he must repay the full overpayment of \$2,000. It says the amount the Claimant paid in taxes will be reconciled on his next income tax filing through a T4E tax form showing his repayment.

## Issues

[9] Was the Claimant overpaid \$2,000 in EI ERB benefits?

---

<sup>1</sup> Sometimes the Commission calls the emergency response benefits paid under the *Employment Insurance Act* (Act) "Canada Emergency Response Benefits" and "CERB." So you'll see these terms used by the Commission throughout the file. But in my decision, I call these benefits EI ERB benefits.

[10] If so, how much does he have to repay?

## Analysis

### Was the Claimant overpaid EI ERB benefits?

[11] Yes. The Claimant was overpaid \$2,000 in EI ERB benefits. The evidence shows that he was paid \$2,000 more in EI ERB benefits than he was entitled to receive. The parties don't dispute this.

### How much does he have to repay?

[12] The Claimant says he will not repay the full \$2,000.

[13] The law says that when a claimant receives more EI ERB benefits than they are entitled to receive, they must repay the overpayment without delay.<sup>2</sup> The amount to be repaid is the **gross** amount of the overpayment, not the after-tax amount.<sup>3</sup>

[14] So, the Claimant must repay \$2,000. This is the gross amount of the overpayment. There is no deduction for the amount he has already paid in income tax.

[15] I agree with the Claimant that it would have been better if Service Canada could have accepted his repayment in 2020. But that didn't happen. And the Tribunal doesn't have the authority to offset the overpayment amount by the amount he has paid in income tax.

[16] Upon repayment, the Commission will issue a T4E tax form. If the Claimant wishes more information about this form, and how his repayment and taxes will be reconciled, he could ask the Canada Revenue Agency (CRA) for more information. He could also ask the CRA about other repayment options (1-866-864-5823).<sup>4</sup>

---

<sup>2</sup> The requirement to repay an overpayment of EI ERB benefits is set out in s 153.6(1)(a) and s 153.1301 of the Act, which adapts section 44 of the Act.

<sup>3</sup> The Federal Court of Appeal said this in a decision called *Court v Canada (Attorney General)*, 2020 FCA 199.

<sup>4</sup> This information is found on the Notice of Debt on page GD3-20 of the appeal file.

[17] The Claimant is annoyed and frustrated that he had to take time off work without pay to deal with the overpayment and this appeal. I understand why he feels this way. But it doesn't change the fact that he was overpaid EI ERB benefits and must repay the gross amount of the overpayment.

## **Conclusion**

[18] The Claimant was overpaid \$2,000 in EI ERB benefits. He must repay \$2,000.

[19] The appeal is dismissed

Angela Ryan Bourgeois  
Member, General Division – Employment Section