



Citation: *EC v Canada Employment Insurance Commission*, 2023 SST 1466

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

## Decision

**Appellant:** E. C.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (567726) dated March 2, 2023 (issued by Service Canada)

---

**Tribunal member:** Elyse Rosen

**Type of hearing:** Videoconference

**Hearing date:** May 31, 2023

**Hearing participant:** Appellant

**Decision date:** June 5, 2023

**File number:** GE-23-988

## **Decision**

[1] The appeal is dismissed.

[2] The Appellant hasn't shown that he had good cause for the delay making his claim for benefits for the week of February 6, 2022. In other words, the Appellant hasn't provided an explanation that the law accepts. This means that his claim can't be treated as though it was made earlier.

## **Overview**

[3] The Appellant tried to make a claim for benefits for the week of February 6, 2023, but it couldn't be processed. This is because it was made on April 29, 2022, which was several weeks after the deadline for making the claim.

[4] The Appellant contacted the Canada Employment Insurance Commission (Commission) and asked it to process his claim and to treat it as though it was made on February 6, 2023.

[5] The Commission decided the claim was late and that the Appellant didn't have good cause for being late. It refused to antedate (in other words, backdate) the claim. Because of this, it says the Appellant isn't entitled to benefits from February 6, 2023, to the date he made the claim.

[6] The Appellant disagrees. He believes he has good cause for filing his claim late.

## **Matter I have to consider first**

### **The Appellant was given permission to file an additional document**

[7] At the hearing, the Appellant said he wanted me to see his record of employment (ROE). He says he wasn't suspended from his job, and the ROE proves this.

[8] I gave the Appellant a deadline to provide the Tribunal with a copy of the ROE. I told him I would accept it as evidence if he provided it within that deadline.<sup>1</sup>

[9] The Appellant didn't send the ROE to the Tribunal within the deadline I gave him. So, I will go ahead with my decision without the document.

[10] In all events, the reason the Appellant lost his job is not relevant to the issue before me.

## Issue

[11] Did the Appellant have good cause for the delay in filing his claim?

## Analysis

[12] In general, to receive Employment Insurance (EI) benefits, you have to make a claim for each week that you didn't work and want to receive benefits.<sup>2</sup> You make a claim by completing and submitting a form supplied by Commission. Usually, you make your claim online, but that isn't the only way.

[13] There are deadlines for making your claim.<sup>3</sup> If you miss the deadline, you can ask the Commission to backdate your claim and treat it as though it was made at an earlier date. This is called antedating.

[14] To get a claim antedated, you have to prove that you had good cause for the delay. And, that good cause has to have continued during the entire period of the delay.<sup>4</sup> You have to prove this on a balance of probabilities. This means that you have to show that it is more likely than not that you had good cause for the delay.

[15] To show good cause, you have to prove that you acted as a reasonable and prudent person would have acted in similar circumstances.<sup>5</sup> In other words, you have to

---

<sup>1</sup> Section 52 of the *Social Security Tribunal Rules* (Rules) allows a party to file evidence during the hearing.

<sup>2</sup> See section 49 of the *Employment Insurance Act* (EI Act).

<sup>3</sup> See section 26 of the *Employment Insurance Regulations*.

<sup>4</sup> See *Paquette v Canada (Attorney General)*, 2006 FCA 309 and section 10(5) of the EI Act.

<sup>5</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

show that you acted as reasonably and carefully as anyone else in your shoes would have.

[16] You also have to show that you took reasonably prompt steps to understand your entitlement to benefits and your obligations under the law.<sup>6</sup> This means that you have to show that you tried to learn about your rights and responsibilities as soon as possible and as best you could. If you didn't take these steps, then you must show that there were exceptional circumstances that explain why you didn't.<sup>7</sup>

[17] You have to show that you acted reasonably and prudently for the entire period of the delay.<sup>8</sup> That period is from the day you want your claim antedated to, until the day you actually made the claim.

[18] I find that the Appellant hasn't proven that he had good cause for the delay in filing his claim, which runs from February 6, 2022, to April 29, 2022, in this case.

[19] The Appellant testified that the reasons he didn't make a claim during this period are:

- he was busy looking for work and the days got away from him
- the daily grind got in the way
- because he wasn't working, he was out of his routine, and it was hard to keep himself structured
- his union had informed him he wasn't entitled to benefits
- he wasn't familiar with the EI system and didn't know he had to file a claim every two weeks

---

<sup>6</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

<sup>7</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

<sup>8</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

[20] I can't conclude that these reasons are good cause.

[21] I find that a reasonable and prudent person in the Appellant's situation would have filed their claim on time despite being busy looking for work and dealing with the daily grind. If the Appellant was finding it hard to stay structured, he could have set a calendar reminder for himself and set aside time every two weeks to make his claim. I think this is what a reasonable person in his shoes would have done.

[22] As for the Appellant's belief that he wasn't eligible for benefits, I note that he applied for benefits and filed two claims. He did this even though his union had told him he couldn't get EI. This doesn't explain why he stopped filing claims after filing the first two.

[23] Moreover, he didn't take reasonably prompt steps to inform himself of his rights and obligations. He says he did a quick Google search. But, he didn't see anything black and white that allowed him to determine if he was entitled to benefits or how often he had to file claim forms.

[24] I find that if he had looked harder, he could have found the information he needed. If he couldn't find it online, he could have called the Commission and asked. I don't think he tried to inform himself as best as he could.

[25] The Appellant didn't provide evidence of any exceptional (in other words, special) circumstances that prevented him from informing himself about his entitlement to benefits, or about what steps he had to take to make a claim. The reasons he provided aren't exceptional.

[26] He says it was only when he had to pay an insurance bill, and realized he didn't have enough money to pay it, that he tried again to make a claim. This was on April 29, 2022. Because he was late, the system wouldn't accept the claim. So, he called the Commission. This is the first time he tried to contact them.

[27] The Commission argues that the Appellant is experienced with the EI claims process, having made other claims in the past. It says he can't pretend not to know that

claims have to be filed within a deadline. However, the Commission hasn't provided any evidence of the Appellant's experience with the EI claims system.

[28] The Appellant says he has made claims in the past, but always for very limited time periods—often of only two weeks.

[29] I don't accept that the Appellant knew, from experience, that he had to file his claims within a certain deadline. But, that doesn't change the fact that he should have informed himself.

[30] The Appellant argues that he should be entitled to benefits even if his claim was late, because he has paid EI premiums. I can't accept that argument.

[31] Even if you make contributions to the EI program, this doesn't automatically entitle you to receive benefits during a period of unemployment. EI is an insurance program, and like any insurance, a claimant must meet all the requirements to qualify to be paid benefits.<sup>9</sup> Filing claims on time is one of those requirements.

## **Conclusion**

[32] I find that the Appellant hasn't shown he had good cause for the delay making his claim. He didn't act as a reasonably prudent person would have in the same circumstances. And, he didn't take sufficient steps to inform himself of his rights and obligations. This means that his claim can't be treated as though it was made earlier.

[33] So, the appeal is dismissed.

Elyse Rosen

Member, General Division – Employment Insurance Section

---

<sup>9</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.