



[TRANSLATION]

Citation: *MG v Canada Employment Insurance Commission*, 2024 SST 209

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

Decision

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

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (594102) dated June 27, 2023
(issued by Service Canada)

Tribunal member: Jacques Bouchard
Type of hearing: Teleconference
Hearing date: January 17, 2024
Hearing participant: M. G.
Decision date: January 17, 2024
File number: GE-23-2856

Decision

[1] The appeal is dismissed.

Overview

[2] The Appellant is appealing to establish his entitlement to regular benefits. The Employment Insurance Commission (Commission) denied him regular benefits because he had provided a medical certificate that said he was unfit for work due to incapacity for the period from October 24, 2022, to July 2023.

Issue

[3] The Tribunal has to decide whether the Appellant was available and capable of work under section 18 of the *Employment Insurance Act* (Act).

Analysis

[4] Section 12(3)(c) of the Act says that the maximum number of weeks benefits can be paid in the case of an injury or illness is 15 weeks.

[5] In this case, the Appellant received Employment Insurance (EI) regular benefits from October 24, 2022. The Record of Employment from X indicated a shortage of work. The Appellant renewed his claim for benefits in April 2023 by submitting a medical certificate. The certificate indicated that the Appellant was unable to work for the period from October 24, 2022, to July 2023.

[6] The Commission reassessed the file under section 12(3)(c) of the Act and converted regular benefits to sickness benefits, resulting in an overpayment of \$3,738. Since the maximum number of weeks benefits can be paid under the Act is 15 weeks, sickness benefits were paid retroactively from October 24, 2022, to February 6, 2023.

[7] The Appellant disagrees. At the hearing, he told the Tribunal that he has always been available for work and that he made a mistake when he completed his reports. He said that [he] didn't click the right button and [his] doctor didn't want to correct the certificate.

[8] The Tribunal notes from the certificate provided in GD-03-33 that the Appellant was hospitalized in September and that he had been treated by his attending physician on October 24, 2022.

[9] When asked at the hearing why his doctor didn't want to change his medical certificate to indicate his ability to return to work, the Appellant was evasive in his answers and concluded that he would not see her again.

[10] At the hearing, the Appellant insisted that he was entitled to EI and that, regardless of the outcome, he would not pay back the overpayment of \$3,738 or the Canada Emergency Response Benefit of \$2,500 that he also owed.

Issue

[11] The Tribunal has to decide whether the Appellant was available and capable of work each day in accordance with section 18 of the Act and whether the Commission was legally correct to base its decision on section 12(3)(c) of the Act.

[12] Even though you said that you were available and capable of work each day, nothing in the file indicates that you were. There is no evidence that you would have worked during the period in dispute or that you looked for work within the meaning of the Act. On the contrary, all the information on file shows that you were unable to work, qualifying you for sickness benefits.

[13] The Tribunal agrees with the Commission that a medical certificate stating that you were capable of returning to work was necessary to reinstate regular benefits.

[14] The Tribunal doesn't see any information on file indicating that you were actively looking or available for work and capable of doing so each day.

Conclusion

[15] Considering all the information on file and the information obtained during the hearing, the appeal is dismissed.

Jacques Bouchard
Member, General Division – Employment Insurance Section