



[TRANSLATION]

Citation: *Estate of RB v Canada Employment Insurance Commission*, 2024 SST 203

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

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| Appellant: | Estate of R. B. |
| Respondent: | Canada Employment Insurance Commission |
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| Decision under appeal: | Canada Employment Insurance Commission reconsideration decision (447677) dated September 25, 2023 (issued by Service Canada) |
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| Tribunal member: | Manon Sauvé |
| Type of hearing: | Videoconference |
| Hearing date: | January 10, 2024 |
| Hearing participant: | Representative for the Appellant's estate |
| Decision date: | January 11, 2024 |
| File number: | GE-23-2898 |

Decision

[1] The appeal is dismissed.

[2] The Appellant has to pay back the \$1,500 he received as an advance payment of the Employment Insurance Emergency Response Benefit (EI ERB).

Overview

[3] At the beginning of the COVID-19 pandemic, a new benefit called the EI ERB was created.¹ The amount paid for this benefit was \$500 per week.² But the Canada Employment Insurance Commission (Commission) decided to pay four weeks of benefits in advance (\$2,000) to first-time EI ERB claimants.

[4] The Appellant applied for the EI ERB on March 22, 2020. On April 6, 2020, the Commission paid him an advance of \$2,000, which corresponds to four weeks of benefits. The Commission also paid the Appellant nine weeks of the EI ERB. So, the Appellant received 13 weeks of the EI ERB for a total of \$6,500.

[5] As part of the request for reconsideration of the decision, the Commission recalculated the eligible weeks. The Appellant could receive benefits for the week of March 15, 2020, since he had worked for part of it.

[6] I have to decide whether the Appellant has to pay back the \$1,500 EI ERB advance payment.

[7] The Appellant disagreed. He wasn't told it was an advance. In addition, the Commission didn't consider his particular situation.

Issue

[8] Does the Appellant have to pay back the EI ERB advance payment?

¹ Part VIII.4 of the *Employment Insurance Act* (Act) sets out the rules for the Employment Insurance Emergency Response Benefit.

² See section 153.10 (1) of the Act.

Analysis

Does the Appellant have to pay back the EI ERB advance payment?

[9] From March 15 to October 3, 2020, claimants could apply for the EI ERB for two weeks at a time.³ The law allowed the Commission to pay these benefits before they would normally have been paid.⁴

[10] The Commission paid the Appellant the advance of \$2,000 on April 6, 2020. This amount corresponded to four weeks of the EI ERB. The Commission planned to recover this advance by later withholding four weeks of benefits, usually at weeks 13, 14, 18, and 19.

[11] The Commission says that, because of the advance payment, the Appellant received a total of 13 weeks of benefits, when he should have received only 10 weeks. The Commission could not recover the advance payment because the Appellant returned to work on May 24, 2020. So, he was overpaid \$1,500.

[12] The Appellant's representative agrees that he was overpaid \$1,500. But the Appellant was never told that it was an advance. The Commission's letter said that he was eligible for this amount.

[13] I find that the Appellant received a total of 13 weeks of the EI ERB, but he should have received only 10 weeks. This is because the Appellant returned to work after 10 weeks of unemployment.

[14] Since the Appellant received three weeks of the EI ERB that he wasn't entitled to, he was overpaid \$1,500.

³ See sections 153.7(1) and 153.8 of the Act.

⁴ See section 153.7 (1.1) of the Act.

[15] The law says that if you received more EI ERB than you were entitled to, you have to pay back the amount you were overpaid.⁵ So, the Appellant has to pay back this amount.

[16] The Appellant's representative asks that the overpayment be written off. The Appellant was the representative's father. The representative is also the liquidator. The Appellant died by suicide in June 2021. He had a problem with compulsive gambling. Absent for several years, he relapsed into compulsive gambling due to financial difficulties. The relapse didn't help his situation. He left only debts, including the overpayment.

[17] I can only apply the law as it is set out in the *Employment Insurance Act* and the *Employment Insurance Regulations*. While I understand the Appellant's representative's situation, I can't change the law or make a different decision.⁶

[18] I can't write off the Appellant's overpayment.⁷ However, the Commission may decide to write off an overpayment in certain circumstances, for example, if repaying it would cause undue hardship. So, the Appellant's representative can ask the Commission to write off the overpayment. Or she can contact the Canada Revenue Agency to make a payment arrangement.

Conclusion

[19] The Appellant has to pay back the \$1,500 EI ERB advance payment.

[20] The appeal is therefore dismissed.

Manon Sauvé

Member, General Division – Employment Insurance Section

⁵ See sections 43 and 44 of the Act.

⁶ See *Canada (Attorney General) v Hamm*, 2011 FCA 205; and *Granger v Canada Employment and Immigration Commission*, A-684-85.

⁷ See sections 153.1306, 153.1307, and 113 of the Act.