



[TRANSLATION]

Citation: *Estate of RB v Canada Employment Insurance Commission*, 2024 SST 202

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** Estate of R. B.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated  
January 11, 2024 (GE-23-2898)

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**Tribunal member:** Pierre Lafontaine

**Decision date:** March 4, 2024

**File number:** AD-24-109

## Decision

[1] Permission to appeal is refused. The appeal will not proceed.

## Overview

[2] On March 22, 2020, the Applicant (Claimant) applied for the Employment Insurance Emergency Response Benefit (EI ERB). On April 6, 2020, the Respondent (Commission) paid him an advance of \$2,000, which corresponds to four weeks of benefits. The Commission also paid the Claimant nine weeks of the EI ERB. So, he received 13 weeks of the EI ERB for a total of \$6,500.

[3] As part of the request for reconsideration of the decision, the Commission recalculated the eligible weeks. It found that the Claimant was entitled to benefits for the week of March 15, 2020, since he had worked for part of it. It decided that the Claimant had to pay back \$1,500 of the advance payment. The Claimant's estate appealed to the Tribunal's General Division.

[4] The General Division found that the Claimant received a total of 13 weeks of benefits but that he should have received only 10 weeks. Since the Claimant received three weeks of benefits he was not entitled to, he was overpaid \$1,500. The General Division found that he had to pay back the \$1,500 to the Commission.

[5] The Claimant's estate is asking the Appeal Division for permission to appeal the General Division decision. It argues that the Commission never told the Claimant that it was an advance. In addition, he received the repayment request two years later, which caused him a shock. It argues that he has left estate debts only. It disputes this because the Commission's repayment request is completely unfair.

## Issue

[6] Does the appeal of the Claimant's estate have a reasonable chance of success based on a reviewable error the General Division may have made?

## **I am not giving permission to appeal**

[7] The General Division found that the Claimant received a total of 13 weeks of benefits but that he should have received only 10 weeks. Since the Claimant received three weeks of benefits he was not entitled to, he was overpaid \$1,500. The General Division found that he had to pay back the \$1,500 to the Commission.

[8] The Commission may reconsider a claim for benefits within 36 months after the benefits have been paid or would have been payable.<sup>1</sup>

[9] I note that the legislation in force during the pandemic allowed the Commission to reconsider whether a person received an amount of EI ERB that they were not eligible for. The law is clear that the Claimant has to pay back the overpayment.<sup>2</sup>

[10] So, the General Division made no reviewable error when it found that the Claimant had to pay back the EI ERB overpayment.

[11] Unfortunately, the law does not allow any discrepancy and gives the Tribunal no discretion to write off the overpayment, even for compassionate reasons.

[12] The law gives the Commission exclusive jurisdiction to decide whether to forgive a debt owed to it under the law.<sup>3</sup> I encourage the representative to make a write-off request directly to the Commission.

[13] For the above reasons, and after reviewing the appeal file, the General Division decision, and the arguments of the Claimant's estate in support of its application for permission to appeal, I find that the appeal has no reasonable chance of success. The Claimant's estate has not raised any issue that could justify setting aside the decision under review.

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<sup>1</sup> See section 52 of the *Employment Insurance Act* (Act).

<sup>2</sup> See sections 44, 52 and 153.6(1)(a) of the Act.

<sup>3</sup> See section 56 of the *Employment Insurance Regulations*.

## **Conclusion**

[14] Permission to appeal is refused. This means that the appeal will not proceed.

Pierre Lafontaine  
Member, Appeal Division