



[TRANSLATION]

Citation: *CK v Canada Employment Insurance Commission*, 2024 SST 388

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	C. K.
Respondent:	Canada Employment Insurance Commission
<hr/>	
Decision under appeal:	General Division decision dated March 1, 2024 (GE-24-419)
<hr/>	
Tribunal member:	Pierre Lafontaine
Decision date:	April 18, 2024
File number:	AD-24-233

Decision

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

Overview

[2] In 2019, the Respondent (Commission) paid the Applicant (Claimant) 15 weeks of sickness benefits. The Claimant then received workers' compensation payments from December 21, 2019, to July 26, 2023.

[3] The Claimant then applied for additional sickness benefits. She argued that the law now allows for 26 weeks of benefits instead of 15 weeks. She asked for the additional 11 weeks. The Commission denied the application for additional sickness benefits because the new law allowing 26 weeks was not in effect until December 2022. On reconsideration, the Claimant appealed to the General Division.

[4] The General Division found that the new law granting 26 weeks of sickness benefits is not retroactive and that the Claimant cannot receive an additional 11 weeks of sickness benefits.

[5] The Claimant is asking the Appeal Division for permission to appeal the General Division decision. She argues that she could not get hours of employment because she is still on medical leave. She is asking for additional sickness benefits.

Issue

[6] The law specifies the only grounds of appeal of a General Division decision. These reviewable errors are the following:

1. The General Division hearing process was not fair in some way.
2. The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide.
3. The General Division based its decision on an important error of fact.

4. The General Division made an error of law when making its decision.

[7] An application for permission to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant does not have to prove her case but must establish that her appeal has a reasonable chance of success. In other words, that there is arguably some reviewable error upon which the appeal might succeed.

[8] I will grant permission to appeal if I am satisfied that at least one of the Claimant's stated grounds of appeal gives the appeal a reasonable chance of success.

I am not giving permission to appeal to the Claimant

[9] The Claimant argues that she could not accumulate hours because she is still on medical leave. She is asking for additional sickness benefits.

[10] The Claimant has not worked since August 30, 2019. She established a claim for sickness benefits on September 1, 2019, and received 15 weeks of benefits.

[11] The *Employment Insurance Act* (EI Act) defines an initial claim for benefits as a claim made for the purpose of establishing a claimant's benefit period.

[12] Section 12 of the EI Act states that "[i]f a benefit period has been established for a claimant, benefits may be paid to the claimant for each week of unemployment that falls in the benefit period, subject to the maximums established by this section."

[13] When the Claimant established her benefit period, the maximum was 15 weeks. It became 26 weeks as of December 18, 2022.

[14] To be entitled to 26 weeks of sickness benefits, the claim for benefits has to be established on or after December 18, the date the EI Act was amended.

[15] So, the General Division did not make an error when it found that the Claimant was not entitled to an additional 11 weeks of sickness benefits.

[16] While I sympathize with the Claimant, the law does not allow for an extension of the maximum period of sickness benefits and does not give the General Division or the Appeal Division the power to grant an extension of that period, regardless of the particular circumstances of her situation.

[17] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for permission to appeal, I am of the view that the appeal has no reasonable chance of success. The Claimant has not raised any issue that could justify setting aside the decision under review.

Conclusion

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

Pierre Lafontaine
Member, Appeal Division