



Citation: *RP v Canada Employment Insurance Commission*, 2023 SST 2048

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

Decision

Appellant: R. P.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (566616) dated January 12, 2023 (issued by Service Canada)

Tribunal member: John Noonan

Type of hearing: In person

Hearing date: June 23, 2023

Hearing participants: Appellant

Decision date: July 5, 2023

File number: GE-23-884

Decision

[1] The appeal is dismissed.

Overview

[2] The Appellant, R. P., a worker in ON, was upon a determination by the Commission, notified that it was unable to grant him a reconsideration of a May 18, 2022 decision because he did not request the reconsideration within the allowed time and he did not show good cause for being late. The Appellant asserts that the reason for the delay was due to his finding work with another employer and his belief that his hours there would be combined with his previous hours in establishing a claim. The Tribunal must decide whether to deny the Appellant's request to extend the 30 day period to make a request for reconsideration of a decision under section 112 of the Employment Insurance Act (the Act) and the Reconsideration Request Regulations (the Reconsideration Regulations).

Issues

[3] Issue # 1: Did the Appellant fail to complete and submit his reconsideration request within the time frame allotted?

Issue #2: If so, was there good cause for the delay throughout the entire period?

Analysis

[4] The relevant legislative provisions are reproduced at GD4.

[5] Reconsideration Request Regulations: 1(1) For the purposes of paragraph 112(1)(b) of the Employment Insurance Act and subject to subsection (2), the Commission may allow a longer period to make a request for reconsideration of a decision if the Commission is satisfied that there is a reasonable explanation for requesting a longer period and the person has demonstrated a continuing intention to request a reconsideration.

[6] The correct legal test for good cause is whether the Appellant acted as a reasonable person in his situation would have done to satisfy himself as to his rights and obligations under the Act. **Canada (AG) v. Kaler, 2011 FCA 266**

[7] The onus / burden is on the Appellant to show good cause for the delay throughout the entire period. **CUB 18315** The term “burden” is used to describe which party must provide sufficient proof of its position to overcome the legal test. The burden of proof in this case is a balance of probabilities, which means it is “more likely than not” the events occurred as described.

[8] Good cause is not defined in the legislation. It can be said to exist where the claimant acted as a reasonable person in the same situation would have acted to ensure compliance with his rights and obligations under the Act. **Paquette v. Canada (AG), 2006 FCA 309**

Issue 1: Did the Appellant fail to complete and submit his reconsideration request within the time frame allotted?

[9] Yes.

[10] Evidence on the file shows that the Appellant was in fact notified on May 18, 2022, as part of the process that there had been a disqualification and of the requirement to submit any reconsideration request in a timely manner. GD3-15

[11] He then waited over 7 months (well outside the allowable 30 day time frame) to submit his reconsideration request.

[12] The Appellant, at his hearing, testified that he was working and trying to accumulate sufficient hours of employment to qualify for benefits.

Issue 2: If so, was there good cause for the delay throughout the entire period?

[13] No.

[14] The Appellant submits that the delay was caused by his choosing, based on his incorrect assumptions regarding the future use of his hours of employment obtained prior to his disentitlement, not to request a reconsideration.

[15] He believed that the insurable hours he accumulated before his voluntary leaving without just cause could be used in a subsequent claim. This is not the case.

[16] There is no evidence of any attempt, on the part of the Appellant to contact Service Canada regarding his file since his disqualification in May of 2022. All correspondence is noted in the Appellant's file at GD3.

[17] The Appellant stated that he did not try to access his Service Canada Account where all information regarding his claim was and is available and that he never planned to pursue this until he filed another claim in November 2022.

[18] He further stated that his original letter regarding his disqualification advised that if he accumulated enough hours with new employment, he could file a new claim, but he had not worked enough hours, so that is when he decided to try and have his hours from the previous employment reconsidered (GD2-5).

[19] He confirmed this information at his hearing.

[20] The Appellant did not demonstrate a continuing intention to pursue the appeal, in fact, he stated he ignored the possibility of a reconsideration as he believed he could qualify using the hours from his previous employment.

[21] I find there is no reasonable explanation for the delay

[22] There would be no prejudice to the other party in allowing or denying the extension.

[23] At his hearing the Appellant testified that he was ready to appeal the disqualification regarding voluntarily leaving, the original decision to deny benefits, it was explained that this was not the case before me.

[24] In this case, I find that the Appellant has not shown evidence of good cause for the delay, 217 days, in submitting his request for reconsideration throughout the entire period.

Conclusion

[25] Having given careful consideration to all the circumstances, I find that the Appellant has not shown good cause throughout the entire period of delay as the onus is on him to do so and the Commission exercised its discretion in a judicial manner acting in good faith, having regard to all the relevant factors, and ignoring any irrelevant factors in reaching the same conclusion.

Canada (AG) v. Uppal, 2008 FCA 388; Canada (AG) v. Tong, 2003 FCA 281; Canada (AG) v. Dunham, A-708-95 therefore the appeal is dismissed.

John Noonan

Member, General Division – Employment Insurance Section