



Citation: *DT v Canada Employment Insurance Commission*, 2024 SST 121

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

Decision

Appellant: D. T.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (638774) dated January 11, 2024 (issued by Service Canada)

Tribunal member: Audrey Mitchell

Type of hearing: Teleconference

Hearing date: January 26, 2024

Hearing participant: Appellant

Decision date: January 29, 2024

File number: GE-24-274

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.

[2] The Appellant's Employment Insurance (EI) parental benefits application shows that he selected the extended benefits option.

[3] The Appellant argues that he made his decision by mistake and actually wants the standard benefits option. But he hasn't shown that he actually chose that option.

Overview

[4] When you fill out your EI parental benefits application, you need to choose between two options: the "standard option" and the "extended option".¹

[5] The standard option pays benefits at the normal rate for up to 35 weeks. The extended option pays the same amount of benefits at a lower rate for up to 61 weeks. Overall, the amount of money stays the same. It is just stretched over a different number of weeks.

[6] Once you start receiving parental benefits, you can't change options.²

[7] On his application, the Appellant chose extended parental benefits. He started receiving benefits starting the week of December 10, 2023. But he actually wanted standard parental benefits.

[8] The Appellant says he intended to select the standard option to get 35 weeks of parental benefits, but he selected the extended option by mistake.

¹ Section 23(1.1) of the Employment Insurance Act (EI Act) calls this choice an "election".

² Section 23(1.2) of the EI Act says that the election is irrevocable (that is, final) once you receive benefits.

[9] The Canada Employment Insurance Commission (Commission) says the Appellant made his choice and it is too late to change it because he has already started receiving benefits.

[10] The Appellant disagrees and says he completed the application for benefits while at the hospital for his baby's birth. He said he messed up, and he actually wanted 35 weeks of parental benefits.

Matter I have to consider first

The Appellant didn't send the Commission's reconsideration decision

[11] Appellants have to send the Tribunal a copy of the Commission's reconsideration decision or the date of the reconsideration with their notice of appeal.³ The Appellant didn't do so. I have a copy of the Commission's reconsideration file that has this decision. So, I don't need the Appellant to send it.⁴

Issue

[12] Which type of parental benefits did the Appellant elect to receive?

Analysis

Which type of benefits did the Appellant elect to receive?

[13] The Appellant elected to receive extended parental benefits.

The parties' arguments

[14] The Commission says what the Appellant chose on the application tells us which option he wanted. It argues that it is too late to change options now.

³ See section 24(1)(e) of the *Social Security Rules of Procedure*.

⁴ See section 8(4) of the *Social Security Rules of Procedure*.

[15] The Appellant says he made a mistake when he selected extended parental benefits.

[16] On his application for benefits, the Appellant selected the extended option for payment of parental benefits. He said he would claim 61 weeks of extended benefits.

[17] The Appellant testified that he made a mistake when he selected extended parental benefits. He said he can't afford extended parental benefits.

[18] I find that the Appellant asked the Commission to change his election from the extended option to the standard option after he received the first payment of parental benefits. I do so because he testified that he called Service Canada on the night that he received the first payment of parental benefits.

[19] The Appellant testified that because he's receiving extended parental benefits, he's behind with his rent and some other bills. He said being able to get the standard option for parental benefits would help his family get by.

[20] I sympathize with the Appellant given his financial circumstances. But I find that he elected to receive 61 weeks of parental benefits. I also find that since he asked to change his election after he received parental benefits, his election is irrevocable by law. While I sympathize with the Appellant's situation, I can't change the law.⁵

Conclusion

[21] The appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section

⁵ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.