



Citation: *JN v Canada Employment Insurance Commission*, 2023 SST 2028

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

Decision

Appellant: J. N.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (610456) dated September 5, 2023 (issued by Service Canada)

Tribunal member: Katherine Parker

Type of hearing: Videoconference

Hearing date: November 15, 2023

Hearing participant: Appellant

Decision date: November 20, 2023

File number: GE-23-2689

Decision

[1] The appeal is allowed. The request for an extension of time to make a request for reconsideration of a decision beyond the 30-day period is approved.

Overview

[2] The Appellant made a claim for employment insurance benefits on October 4, 2020.¹

[3] The Employment Insurance Commission (the Commission) investigated the Appellant's employment file and decided there were some issues. It said that:

- he had quit his job without just cause
- he wasn't available for work from January 4, 2021, to January 15, 2021
- he had one week of unreported earnings.

[4] So on June 27, 2022, the Commission issued a decision to disqualify the Appellant starting December 27, 2020, because it said he voluntarily quit his job. It also said that after he quit, he wasn't available for work, and didn't report his earnings for a week.² The letter of decision said that the Appellant had 30 days from the date of the letter (or from the date he was verbally notified, whichever came first) to make a request for reconsideration.

[5] The decision made by the Commission resulted in a debt of \$20,000.³

[6] On August 9, 2023, the Appellant made a request for reconsideration. He said he was sick and didn't know that he had any rights.

¹ See GD3-3 to GD3-16.

² See GD3-19. The letter of decision is dated June 27, 2022. The period he was unavailable was from January 5, 2021, to January 15, 2021. He had one week of earnings he didn't declare.

³ See GD3-20.

Issues

[7] Has the Appellant shown a reasonable explanation for the delay?

[8] Has the Appellant shown a continuing intention to pursue the appeal?

[9] Has the Appellant shown that he has an arguable case?

Analysis

– Is there a reasonable explanation for the delay

[10] The Appellant has a reasonable explanation for the delay. He didn't have the mental capacity at the time to deal with the situation.

- The Appellant was in a toxic relationship. He and his partner got in a fight. She threatened him with serious harm, so he left town. He was suicidal and attempted to take his own life.
- His partner contacted the RCMP who took the Appellant to a mental health hospital and had him committed involuntarily for one month.
- During this time he received support and got the resources to help him get back on his feet.
- He got a job and counselling. He then decided it was time to deal with the debt he owed so he contacted the Canada Revenue Agency (CRA) to discuss.

[11] The Appellant said at the hearing that he lacked the mental capacity to deal with his situation. He had been through trauma and was trying to get his life back on track. He also explained that he has learning disabilities and has trouble figuring things out on his own.

– **Did the Appellant show an intention to pursue an appeal**

[12] The Appellant showed his intention to deal with the Commission's decision. He called CRA to find out what to do. When he found out how to proceed, he made a request for reconsideration. He then made an appeal when his request was denied. He was trying to figure things out and get the problem resolved.

– **Has the Appellant shown that he has an arguable case**

[13] The Appellant has shown that he has an arguable case. His employer said he left town without a word.⁴

- The Appellant said at the hearing that he left town because he was afraid for his life after he and his partner had a fight. His partner's father drove him to a friend's house in another town for his own safety.
- He then attempted to take his own life. That's when the RCMP took him to the hospital and admitted him involuntarily. He had no way to contact his employer.
- The Commission said the Appellant wasn't available from January 4, 2021, to January 15, 2021. The reason he wasn't available is that he was hospitalized in the mental health ward. He had been a danger to himself. He was sick during this time and could have been eligible for sick benefits.
- The Commission said that the Appellant didn't report his earnings for one week. He said he started work and didn't tell the Commission. But he stopped reporting his earnings.

[14] The Appellant deserves a chance to tell his side of the story. The Commission's decision resulted in a debt of \$20,000. This could be equal to a year's wages and is difficult to repay without causing financial hardship.

⁴ See the ROD on GD3-17. The employer said the Appellant quit. Then it added a note in the comments box saying that the Appellant left town.

Conclusion

[15] The appeal is allowed. The Appellant has shown that he has a reasonable explanation for being late. He intended to resolve the matter, and he has an arguable case.

[16] This means that the request for an extension of time to make a request for reconsideration is approved.

Katherine Parker
Member, General Division—Employment Insurance Section