



Citation: *MA v Canada Employment Insurance Commission*, 2024 SST 441

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: M. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (631968) dated November 24,
2023 (issued by Service Canada)

Tribunal member: Jacques Bouchard

Type of hearing: Videoconference

Hearing date: February 7, 2024

Hearing participants: M. A.

Decision date: February 12, 2024

File number: GE-24-85

Decision

[1] The appeal is dismissed.

Overview

[2] The claimant is appealing the Commission's decision resulting from her request for reconsideration under section 112 of the Employment insurance Act (the Act) regarding the refusal of a delayed request of a payment refusal in accordance with sections 10 and 50 of the Act and section 26 of the Employment Insurance Regulations (the Regulations).

[3] Under Commission's rules, payment refusal requests can be accepted before the week is processed or up to 3 weeks after the week the claimant's report was processed. In this case, the appellant requests a payment refusal after 7 weeks.

[4] The Tribunal acknowledges that the concept of good cause applies to claim procedure issues or payment refusals. The appellant must show good cause when the delay exceeding 3 weeks.

[5] The Tribunal must determine whether the claimant has shown good cause for the delay to accept a request for more than 3 weeks and good cause must be shown to have existed throughout the whole period of delay, as per subsection 10(5) of the Act. Good cause means doing what a reasonable person would do to fulfil their rights and obligations under the EI regulations.

[6] Facts on file prove that on May 16, 2023, the Claimant requested a refusal of payment for the period of 2023/03/19 to 2023/03/25, and thus, more than 7 weeks after the emission of benefits. (GD4-4)

[7] During the hearing the Claimant explained that she went outside of Canada to visit friends and relatives in Peru. She knew that her unemployment insurance benefits would be affected but she did not verify how much until 7 weeks after she came back. That's when she found out that her benefits for the period shown above was affected by

her trip outside of Canada and that she could request for payment refusal of diminution of her benefits.

[8] The claimant expressed that she got mixed up, looking at her bank statement, between income tax return, tax return from government of Canada and unemployment benefit. She explained during the hearing, that was the reason why she delayed her request. She also stated that she came back affected by a high number of people she knew, that died from COVID-19.

[9] The Claimant tells the Tribunal that she repeatedly phoned the Commission's call centre to check on her entitlement but did not check the amount she received in her bank account for 7 weeks.

[10] The Claimant told the Tribunal that she learned from a clerk that she could have requested a payment refusal.

Analysis

[11] As stated above, the Tribunal must decide if the claimant showed good cause for the delay throughout the period beginning on March 28, 2023 to May 16, 2023. Did she act like a reasonable person in the same situation would have acted to ensure compliance with her rights and obligations under the Act.

[12] The Tribunal considers that the claimant did not act as a reasonable person in her case, as she could have informed herself about her benefits, especially that she knew she would receive a partial payment for being out of Canada.

[13] Even though she had called numerous times to the call centre and was aware of the consequences on her unemployment benefits, she has not checked on her bank account statement for 7 weeks.

[14] The Tribunal believes that a reasonable person would have checked her bank statement and that the claimant has not shown good cause in delaying her request.

[15] Therefore, the Tribunal concurs with the Commission when considered that the appellant knew that her benefits would be affected by her out of Canada trip (GD3-20) but did not act as a reasonable person would in verifying the amount of partial payment as soon as possible.

[16] The claimant expressed that she got mixed up looking at her bank statement and thought she had income tax or tax return from the government of Canada instead of unemployment insurance benefits. The Tribunal established as shown above that it is not a good cause under subsection 10(5) of the Act.

Conclusion

[17] The appeal is dismissed.

Jacques Bouchard
Member, General Division – Employment Insurance Section