



Citation: *TY v Canada Employment Insurance Commission*, 2024 SST 478

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant: T. Y.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 22, 2024
(GE-23-3242)

Tribunal member: Janet Lew

Decision date: May 6, 2024

File number: AD-24-185

Decision

[1] Leave (permission) to appeal is refused. The appeal will not be going ahead.

Overview

[2] The Applicant, T. Y. (Claimant), is seeking leave to appeal the General Division decision. The General Division found that the Claimant received \$10,500 in Employment Insurance Emergency Response Benefits (EI ERB). The General Division also found that the Claimant should have received only \$10,000, leaving him with an overpayment of \$500 to repay.

[3] The Claimant denies that he received any overpayment of EI ERB. He argues that the General Division made legal and factual errors. The Claimant argues that the General Division failed to explain how any overpayment might have arisen. The Claimant says that there was no overpayment because the Government of Canada stated that every resident of Canada “can receive six-month benefit of \$2,000 per month while staying home which is \$12,000 for six month (*sic*).” In his case, he says he received only 4.5 months, rather than six months of benefits.

[4] Before the Claimant can move ahead with the appeal, I have to decide whether the appeal has a reasonable chance of success. In other words, there has to be an arguable case. If the appeal does not have a reasonable chance of success, this ends the matter.

[5] I am not satisfied that the appeal has a reasonable chance of success. Therefore, I am not giving permission to the Claimant to move ahead with the appeal.

Issue

[6] The issues are as follows:

- (a) Is there an arguable case that the General Division made a legal error about the weeks of EI ERB that the Claimant was entitled to receive?

- (b) Is there an arguable case that the General Division overlooked any of the facts when it calculated the Claimant's entitlement to EI ERB?

I am not giving the Claimant permission to appeal

[7] Leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success. A reasonable chance of success exists if the General Division may have made a jurisdictional, procedural, legal, or a certain type of factual error.

[8] For these types of factual errors, the General Division had to have based its decision on an error that it made in a perverse or capricious manner, or without regard for the evidence before it.

The Claimant does not have an arguable case that the General Division made a legal error

[9] The Claimant does not have an arguable case that the General Division made a legal error about the number of weeks of EI ERB that the Claimant was entitled to receive. The General Division properly interpreted and applied the law regarding the Claimant's entitlement.

[10] The Claimant argues that all residents of Canada were entitled to receive six months of EI ERB, at a rate of \$2,000 per month. He says he should have received six months of benefits. He calculates that he was entitled to receive at least \$12,000. He notes that he received only \$10,500 in EI ERB, so he says that there was no overpayment.

[11] The General Division noted the Claimant's arguments.¹ But, as it explained, the law (*Employment Insurance Act*) required the claimant to be eligible for the EI ERB. Not every Canadian resident could get six months of EI ERB, if any benefits at all. They had to meet certain requirements.²

¹ See General Division decision, at paras 7, 15, and 19.

² See sections 153.8 and 153.9. of the *Employment Insurance Act*.

[12] The General Division referred to some of these requirements. A claimant had to have made a claim for the benefit for any two-week period.³ In other words, even if a claimant met all other eligibility requirements, they would not get the EI ERB benefit if they did not make a claim for that two-week period.

[13] Further, to have been eligible for the EI ERB, a claimant had to have stopped working and have been without employment income for at least seven consecutive days within the two-week period in respect of which they claimed the benefit.

[14] The General Division noted that the Claimant did not make a claim for EI ERB after July 26, 2020. He started working at that point.

[15] So, even if the Claimant had made a claim after July 26, 2020, he would not have qualified or been eligible for the EI ERB. He was working (and presumably received employment earnings) after this date.

[16] The Claimant did not meet all of the requirements to have continued to get EI ERB. He simply did not qualify and was not eligible to continue to receive EI ERB after July 26, 2020. He was not eligible to receive the maximum number of weeks of EI ERB.

[17] I am not satisfied that there is an arguable case that the General Division made a legal error about the weeks of EI ERB that the Claimant was entitled to receive.

The Claimant does not have an arguable case that the General Division overlooked any of the evidence when it calculated his entitlement to EI ERB

[18] The Claimant does not have an arguable case that the General Division overlooked any of the evidence when it calculated his entitlement to EI ERB.

³ See section 153.8(1) of the *Employment Insurance Act*.

[19] The General Division's findings were supported by the evidence before it. The General Division considered all of the relevant facts when it assessed how many weeks of EI ERB that the Claimant was entitled to receive.

[20] The General Division noted when the Claimant applied for benefits and how many weeks of benefits he received. The General Division also noted when the Claimant last claimed EI ERB.

[21] The Claimant does not challenge these findings. The Claimant has consistently said that he received \$10,500 in EI ERB. He says that he should have received \$12,000 in EI ERB. However, the evidence does not support the Claimant's arguments that he was entitled to receive the maximum number of weeks of EI ERB. He went back to work after July 26, 2020, and was no longer eligible to receive the benefit.

[22] I am not satisfied that there is an arguable case that the General Division made a factual error about his entitlement to extra weeks of EI ERB.

Conclusion

[23] The appeal does not have a reasonable chance of success. Permission to appeal is refused. This means that the appeal will not be going ahead.

Janet Lew
Member, Appeal Division