



Citation: *BU v Canada Employment Insurance Commission*, 2024 SST 829

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

## **Decision**

**Appellant:** B. U.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision hasn't been issued by Service  
Canada

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**Tribunal member:** Linda Bell

**Type of hearing:** In Writing

**Decision date:** April 22, 2024

**File number:** GE-24-980

## Decision

[1] I'm dismissing this appeal because it's premature.<sup>1</sup> This means the appeal will not proceed.

## Overview

[2] The Commission states that the Appellant has an appeal with the Federal Court on the issue of whether he voluntarily left his job at X without just cause. He filed that appeal to the Federal Court after receiving the Tribunal's Appeal Division decision (AD-23-883) and the General Division decision (GE-23-1182). So, the issue of whether he voluntarily left his job with X, can't be determined in this appeal.

[3] The Commission submits that on December 4, 2023, it sent the Appellant an initial decision in response to his November 23, 2023, application. That decision letter states the Appellant doesn't have enough hours to qualify for regular Employment Insurance (EI) benefits. This is because his hours from X can't be used because he voluntarily left that job without just cause.<sup>2</sup>

[4] The Commission said the Appellant hasn't submitted a request for reconsideration in response to its December 4, 2023, initial decision. So, the Commission argued the General Division doesn't have jurisdiction to determine whether he has enough hours to qualify for regular EI benefits.

[5] There is no evidence that the Appellant received a reconsideration decision on the issue that he doesn't have enough hours to qualify for regular EI benefits. So, I'm dismissing this appeal as premature.

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<sup>1</sup> Section 113 of the *Employment Insurance Act* (EI Act) provides that the Commission must issue a reconsideration decision on the specific issue before an appeal can proceed at the General Division of the Social Security Tribunal.

<sup>2</sup> Section 30 of the EI Act states that once a disqualification has been imposed, a claimant must work enough hours after the disqualification, to establish a new claim (benefit period). That is to say, the hours from the job he voluntarily quit, without just cause, can't be used as part of the calculation to establish a new benefit period.

## **Matters to consider first**

### **Case Conference**

[6] In the interests of administrative justice and procedural fairness, I invited both parties to attend a pre-hearing teleconference to discuss, among other things, my jurisdiction to determine the issue of whether the Appellant has enough hours to qualify for regular EI benefits.

[7] The Commission appeared before me on April 8, 2024. The Appellant failed to appear.

[8] The Tribunal notified the Appellant of the pre-hearing teleconference through electronic communication. I was notified shortly before the case conference that the Appellant responded to the invitation. He said that he would be able to participate, but he failed to attend. I recognize that he also said that he would appreciate a written format.

[9] During the pre-hearing teleconference, the Commission argued the Tribunal doesn't have jurisdiction to determine the issue of whether the Appellant has enough hours to qualify for regular EI benefits. This is because the Appellant hasn't submitted a request for reconsideration to the Commission on this issue.

[10] On April 8, 2024, I issued a summary of what was discussed at the case conference.

### **Format of Hearing**

[11] The hearing proceeded in writing, as requested by the Appellant.<sup>3</sup>

[12] On April 10, 2024, I wrote to the Appellant and explained that if he wished to submit any further statements or documents he must do so by April 19, 2024. I also

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<sup>3</sup> Section 2(1) of the *Social Security Tribunal Regulations* states a Tribunal hearing must be held in the format requested by the appellant.

explained that if he wished to change his hearing to a teleconference or videoconference, he must tell the Tribunal no later than April 19, 2024.

[13] There is nothing on file that suggests the Appellant tried to submit additional information or contact the Tribunal to request a different form of hearing. Nor is there any indication that the Appellant requested more time to make those submissions. Accordingly, the hearing proceeded based on the information on file.

## Issue

[14] Does the General Division have jurisdiction to decide a matter that hasn't been reconsidered by the Commission?

## Analysis

[15] Upon review of this appeal, I determined the General Division doesn't have jurisdiction to decide whether the Appellant has enough hours to qualify for regular EI benefits on his November 23, 2023, application. Here is what I considered.

[16] My jurisdiction comes from the reconsideration decision made by the Commission.<sup>4</sup>

[17] The Commission states the Appellant **hasn't** submitted a request for reconsideration on the issue of whether he has enough hours to qualify for benefits on his November 23, 2023, application. I see no evidence to dispute this.

[18] Accordingly, the General Division doesn't have jurisdiction to decide the issue under appeal. So, the appeal is premature.

[19] If the Appellant wishes to pursue this issue, he is at liberty to submit a request for reconsideration to the Commission about whether he has enough hours to qualify for benefits as of November 23, 2023.

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<sup>4</sup> See section 112 of the Act.

## **Conclusion**

[20] I am dismissing this appeal as premature.

Linda Bell

Member, General Division – Employment Insurance Section