Citation: *DG v Canada Employment Insurance Commission*, 2024 SST 1574

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	D. G.
Representative:	Philip Cornish
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (542399) dated October 6, 2022 (issued by Service Canada)

Tribunal member:	Linda Bell
Type of hearing:	Hybrid - In person and videoconference
Hearing date:	November 29, 2024
Hearing participants:	Appellant Appellant's representative
Decision date:	December 16, 2024
File number:	GE-24-2668

Decision

[1] The appeal is dismissed.

[2] The Appellant was placed on leave without pay (suspended) because of misconduct (in other words, because he did something that caused him to be suspended).[1]

[3] The Appellant is not entitled to Employment Insurance (EI) benefits from February 14, 2022, to June 17, 2022.[2] This means he is disentitled from EI benefits during this period.

Overview

[4] The Appellant works for X (X), a federal government agency. He worked during the COVID-19 pandemic until he was put on an involuntary, leave without pay, starting February 11, 2022.

[5] In its February 15, 2022, letter, the employer states the Appellant will be commencing leave without pay (LWOP) due to non-compliance with the Policy on COVID-19 Vaccination, effective February 11, 2022.[3] Even though the Appellant does not dispute this happened, he says that his actions are not misconduct.

[6] The Commission accepted the employer's reason for placing the Appellant on an involuntary LWOP, as set out in the employer's February 15, 2022, letter. The Commission decided the Appellant was suspended from his job because of misconduct.

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[1] The courts have maintained that when a claimant is placed on an involuntary leave without pay by the employer, it is considered a suspension for the purpose of Employment Insurance. For example, see *Davidson v Canada (Attorney General),* 2023 FC 1555, *Brown v Canada (Attorney General),* 2024 FC 1544, and *Murphy v Canada (Attorney General),* 2024 CF 1356.
[2] See section 31 of the *Employment Insurance Act* (EI Act) provides that a disentitlement is imposed on workdays (Monday through Friday) for which benefits may be paid during a benefit period. The Appellant's benefit period started on February 13, 2022. So, the first day of the disentitlement is Monday, February 14, 2022. The Appellant's administrative leave without pay (suspension) ended June 19, 2022. So, the last day of the disentitlement is the Friday before, on June 17, 2022.
[3] See page GD24-14.

Because of this, the Commission decided the Appellant was not entitled to receive EI benefits from February 14, 2022, to June 17, 2022.

[7] The Appellant disagrees with the Commission's decision to deny him EI benefits. He appealed to the Social Security Tribunal (Tribunal) General Division. His appeal was initially heard by my colleague in appeal GE-22-3838. That appeal was dismissed on March 12, 2024.

[8] The Appellant was granted leave to appeal to the Tribunal's Appeal Division (AD). The AD member determined the appeal in writing on July 17, 2024 (appeal AD-24-283) and returned the matter to the General Division for redetermination. A new appeal docket was set up (appeal GE-24-2668) and assigned to me for redetermination.

[9] The Appellant argues that his employer doesn't consider his being on leave without pay as a suspension or misconduct. So, he believes he should be entitled to EI benefits.

Matters I have to consider first

Potential added party

[10] Sometimes the Tribunal sends the Appellant's former employer a letter asking if they want to be added as a party to the appeal. To be an added party, the employer must have a direct interest in the appeal. I have decided not to add the employer as a party to this appeal. This is because there is nothing in the file that indicates my decision would impose any legal obligations on the employer.

The appeal record

[11] At the outset of the November 29, 2024, hearing, I explained that in cases where the Appeal Division sends an appeal back to the General Division for reconsideration, the entire record from the AD appeal and the previous GD appeal, along with any new documents or evidence, are included in the new appeal file. That new appeal file is GE-24-2668.

[12] I also explained how this hearing was *de novo*. This means I make my decision with “fresh eyes and ears,” based on the documents received on file from all parties, all oral testimony before the Tribunal, submissions from both parties, and in accordance with the applicable Employment Insurance law.

[13] The Appellant and his representative were given the opportunity to ask questions or make comments in response to my statements on how this appeal would proceed. Both confirmed their understanding and had no questions or comments.

Adjournments and technical difficulties

[14] The hybrid hearing was initially scheduled for October 11, 2024. The Appellant requested an adjournment. One of the reasons presented by the Appellant was that his representative didn’t receive the 8 emails sent to him on September 9, 2024, with the appeal documents attached.

[15] After further clarification of their availability, I granted the adjournment and scheduled the hearing for November 29, 2024. The Appellant appeared in person and his representative appeared via video conference with his audio through the telephone.

[16] There were some technical difficulties with the video conference audio system, which caused feedback and echoing. To resolve the issue the audio was muted on the videoconference system, and the representative joined by telephone for the audio, while he remained on video.

[17] After consideration of the foregoing, I find the Appellant had a full and fair opportunity to be heard, in the manner he requested. Specifically, he attended in person, his representative attended visually by video, with audio through telephone.

Receipt of the appeal documents

[18] I am satisfied that the Appellant and his representative received copies of the appeal documents. The representative stated that he thinks he was in a position to have received all the documents; that he believes he has all the documents; and that they have now been provided to him.

[19] Initially, the representative said that he didn't receive the 8 emails that were sent to him on September 9, 2024. At the outset of the hearing, the representative said he asked the Tribunal to resend the entire file to him on November 25, 2024.

[20] The representative said that the documents he received by email on November 26, 2024, may have been missing some pages in the GD2 documents. Specifically, he said that the GD2 documents he received on November 26, 2024, only went up to page 615.

[21] Upon review of the actual emails sent to the representative by the Tribunal, I explained that I could see he was sent the entire appeal record on September 9, 2024, and November 26, 2024. I could also see that the two GD2 .pdf documents had all the pages labeled up to GD2-793. It appears that he may have been looking at the page counter at the top of his tool bar in his .pdf reader as it lists pages 615 / 615. But those numbers aren't the page numbers listed at the bottom right-hand corner of each page.

[22] The representative then confirmed when he opened the second GD2 document, that he received from the Tribunal on September 9, 2024, it displayed page numbers at the bottom right-hand corner up to page GD2-793.

[23] After consideration of the representative's statements and my review of the emails sent to him, I am satisfied that the representative received all the appeal documents, prior to the hearing.

Late documents

[24] In the interest of justice, I have accepted the documents and submissions received after the November 29, 2024, hearing.[4]

[25] The representative said that he had recently submitted copies of case law he wished to rely upon. Those documents weren't received by the Tribunal prior to the start of the hearing. In addition, the Appellant requested permission to submit additional

[4] Section 42 of the *Social Security Rules of Procedure* states that after considering any relevant factor, the Tribunal may give a party permission to file documents after the filing deadline.

documents in support of his appeal. I granted leave to submit late documents providing they were received by the Tribunal no later than midnight on November 29, 2024.

[26] The Tribunal received two emails with documents attached, from the representative on November 29, 2024. One email with documents attached was received from the Appellant by the November 29, 2024, deadline. I have considered these documents as they were received by the set deadline.

[27] The representative made one additional submission by email on December 2, 2024, after the deadline. This late submission includes a copy of a decision he had referenced during the hearing.

[28] The Commission was provided copies of the additional submissions and documents but didn't respond. The late document is relevant to the representative's submissions. So, I find there would be no prejudice to either party if the late documents were accepted.[5]

Issue

[29] Was the Appellant suspended from his job because of misconduct?

Analysis

[30] The law says that you can't get EI benefits if you lose your job because of misconduct. This applies when the employer has suspended you or let you go.[6]

[31] To answer the question of whether the Appellant was suspended because of misconduct, I have to decide two things. First, I have to determine why the Appellant stopped working. Then, I have to determine whether the law considers that reason to be misconduct.

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[5] Section 42(1) of the *Social Security Tribunal Rules of Procedure* stipulate that the Tribunal must not consider any evidence submitted after a filing deadline set by the Tribunal, unless the Tribunal gives permission.
[6] See sections 30 and 31 of the Act.

Why did the Appellant stop working?

[32] I find that it is more likely than not that the Appellant was suspended due to his non-compliance with the employer's COVID-19 vaccination policy.[7] Here is what I considered.

[33] I recognize that the reason why the Appellant says he stopped working changed over time.

- On his March 4, 2022, EI application, the Appellant wrote he was, "forced on LWOP."[8]
- On his request for reconsideration form, the Appellant wrote, "Your letter states I voluntarily left my employment. I did not…I was forced on leave without pay."[9]
- In his typed statement to the Commission in support of his request for reconsideration, the Appellant wrote, "In fact, I have been repeatedly told verbally and in email from management that I was being placed on leave without pay…"[10]
- In his November 6, 2022, appeal documents to the Tribunal, the Appellant wrote, "In fact, I have been repeatedly told verbally and in email from management that I was being placed on leave without pay…"[11]
- In his November 7, 2022, appeal to the General Division, the Appellant wrote, "The employer placed me on administrative leave without pay."[12]
- In his April 13, 2024, statement to the Tribunal's Appeal Division, the Appellant wrote, "The SST has ignored the evidence that I was told that I would be placed on LWOP just like when I was on paternity leave without pay."[13]

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[7] See the employer's letter at pages GD24-14 to GD24-26.
[8] See page GD3-11.
[9] See page GD3-682.
[10] See page GD3-688.
[11] See page GD2-16.
[12] See page GD2-22.
[13] See page AD01B-6.

- On April 23, 2024, the Appellant wrote to the AD, "**I took** a leave of absence under LWOP," [my emphasis added in bold text].[14]

- In his May 7, 2024, email to the AD, the Appellant said, "…and was placed on LWOP…"[15]

- During the November 29, 2024, hearing the Appellant initially said he was forced on leave without pay. He then changed to say he always had a choice to be on leave without pay. He explained that he could have chosen to get the vaccination and return to work the next day.

[34] I recognize that prior to the General Division's decision on March 12, 2024, in which my colleague dismissed his appeal, the Appellant consistently said that he didn't voluntarily go on a LWOP. Instead, he said, his employer placed him on LWOP, he was forced on LWOP, and he was on an involuntary administrative LWOP. It wasn't until his second submission to the Tribunal's Appeal Division that the Appellant began to say that he "took a leave of absence," as if it was his choice to be off work on LWOP.

[35] After careful consideration of the evidence before me, I find the Appellant didn't voluntarily leave (quit) and he wasn't on a voluntary leave without pay. This is because he didn't have the choice to stay or to leave."[16]

[36] Instead, I find the Appellant's employer placed him on an involuntary LWOP, which is considered a suspension for the purpose of Employment Insurance. The documents on file clearly show that it was the employer who placed the Appellant on an involuntary LWOP, when he failed to comply with the employer's vaccination policy. When his requests for religious accommodation were denied, he failed to be fully

[14] See page AD01C-1.
[15] See page AD01D-
[16] See *Canada (Attorney General) v Peace,* 2004 FCA 56.

vaccinated against COVID-19 as required by the COVID-19 policy, and the employer put him on an involuntarily LWOP. Under EI law, this is considered a suspension.[17]

[37] The Appellant testified that in late October 2021, or on November 9, 2021, he was notified of and received access to the employer's policy by email or online. He submitted a copy of the framework for implementation of the employer's policy, which includes a link to the Treasury Board Policy on COVID-19 Vaccination for the Core Public Administration including the Royal Canadian Mounted Police. That policy became effective on October 6, 2021.[18]

[38] The Appellant readily admits that he was aware that if he didn't comply with the policy, the employer would place him on LWOP. He said he submitted his vaccination status, he attended the required training, and he sought religious accommodations. When his requests for religious accommodations were denied by the employer, he remained unvaccinated.

[39] The Appellant identified that section 7 of that framework for implementation of the employer's policy sets out the consequences for non-compliance. Specifically, "for employees unwilling to be fully vaccinated…" at 2 weeks after the attestation deadline, place employees on administrative LWOP.[19] It defines employees unwilling to be fully vaccinated as follows:

> For the purpose of this policy "employees unwilling to be fully vaccinated," means employees refusing to disclose their vaccination status (whether they are fully vaccinated or not), employees for whom accommodations for a certified medical contraindication, religion, or another prohibited ground of discrimination is not granted and where the employees are still unwilling to be vaccinated, and employees who have attested that they are unvaccinated.[20]

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[17] See *Davidson v Canada (Attorney General),* 2023 FC 1555, and section 31 of the EI Act.
[18] See pages GD2-41 to GD2-76.
[19] See page GD2-71.
[20] See page GD2-75.

[40] Accordingly, I find that for the purpose of EI benefits, the Appellant was placed on an involuntary LWOP (suspended) because he was unwilling to be fully vaccinated against COVID-19, as per the employer's policy.

Misconduct under EI Law

[41] To be misconduct, the evidence before me must show that the Appellant lost his job because of misconduct. The Commission has the burden of proof, on a balance of probabilities. This means the evidence must show it is more likely than not that the Appellant lost his job because of misconduct.[21]

[42] The *Employment Insurance Act* (EI Act) does not say what misconduct means. But case law (decisions from courts) shows us how to determine whether the Appellant's suspension and dismissal are misconduct under the EI Act. It sets out the legal test for misconduct—the questions and criteria to consider when examining the issue of misconduct.

[43] Case law says that to be misconduct, the conduct has to be wilful. This means the Appellant's conduct was conscious, deliberate, or intentional.[22] Misconduct also includes conduct that is so reckless that it is almost wilful.[23] The Appellant doesn't have to have wrongful intent (in other words, he does not have to mean to be doing something wrong) for his behaviour to be misconduct under the law.[24]

[44] There is misconduct if the Appellant knew or should have known that his conduct could get in the way of carrying out his duties toward his employer and there was a real possibility of being suspended or let go because of that.[25]

[45] The law doesn't say I have to consider how the employer behaved.[26] I cannot consider whether the employer's actions of refusing accommodation requests, or the

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[21] See *Minister of Employment and Immigration v Bartone*, A-369-88.
[22] See *Mishibinijima v Canada (Attorney General)*, 2007 FCA 36.
[23] See *McKay-Eden v His Majesty the Queen*, A-402-96.
[24] See *Attorney General of Canada v Secours*, A-352-94.
[25] See *Murphy v Canada (Attorney General),* 2024 CF 1356 starting at paragraph [80] and *Mishibinijima v Canada (Attorney General)*, 2007 FCA 36.
[26] See section 31 of the EI Act.

employer's policies on how it treats an involuntary LWOP regarding disciplinary actions, parental leave, or pensionable time, affects the Appellant. Nor can I consider whether a suspension, as defined under EI law, is a reasonable penalty.[27] Instead, I must focus on what the Appellant failed to do, and whether that amounts to suspension because of their misconduct under the EI Act.[28]

[46] I can only decide whether there was misconduct under the EI law. I can't make my decision based on whether the Appellant has other options under other laws. Issues about whether the Appellant's employer or union considers its actions of placing him on LWOP as being non-disciplinary, or not misconduct under any other context or definition, or whether the employer should have made reasonable arrangements (accommodations) for the Appellant, or claims about breaches of Human Rights or other laws, are not for me to decide.[29] I can consider only one thing: whether what the Appellant failed to do is misconduct under the EI Act.

Is the reason for the Appellant's suspension misconduct under the EI law?

[47] Yes. I find, that on a balance of probabilities, the Appellant was suspended due to misconduct. I have set out my reasons below.

[48] The Commission says there was misconduct because the Appellant was aware of the employer's policy and the requirement to be fully vaccinated, unless granted an exemption, in order to continue working for the employer. However, he made a conscious choice not to comply with the policy, he didn't have an exemption, and as a result, his employment was suspended from February 11, 2022. Therefore, the Commission determined he is considered to have been suspended from his employment by reason of his own misconduct.

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[27] See *Paradis v Canada (Attorney General),* 2016 FC 1282; *Canada (Attorney General) v McNamara,* 2007 FCA 107.
[28] See *Paradis v Canada (Attorney General)*, 2016 FC 1282; *Canada (Attorney General) v McNamara*, 2007 FCA 107.
[29] See for example, *Brown v Canada (Attorney General),* 2024 FC 1544; and *Canada (Attorney General) v McNamara*, 2007 FCA 107.

[49] The Appellant worked for X, a federal government agency. The Appellant knew that his employer had a COVID-19 vaccination policy, which he was provided access to via email or online. The employer's policy applied to all employees of the Core Public Administration, including the Royal Canadian Mounted Police.[30]

[50] The Appellant readily admits he knew the employer had a policy requiring all employees to be fully vaccinated against COVID-19 by set deadlines. He had access to that policy either by email or online in late October 2021, or on November 9, 2021. He reported his vaccination status as being unvaccinated and he applied for religious accommodation. He remained unvaccinated and was aware he would be placed on LWOP (suspended) if his religious accommodation was denied.

[51] The Appellant testified that he was notified of the employer's policy by email or online in late October 2021 or November 9, 2021. He submitted a copy of the employer's framework for implementation of the employer's policy, which defines employees unwilling to be fully vaccinated to include employees for whom religious accommodation is not granted. It also sets out how those employees will be placed on LWOP for failing to comply.

[52] The Appellant requested a religious accommodation and the employer denied that request twice. So, he knew, or ought to have known he would be placed on an involuntarily LWOP (suspended) when his accommodation request was denied. He was suspended effective February 11, 2022.[31]

[53] The policy came into effect on October 6, 2021. As stated by the Appellant, the deadlines for compliance were adjusted. For example, the Appellant was accommodated to work under the testing policy while waiting for a decision on his request for religious accommodation. He doesn't dispute the employer's letter which clearly sets out he was placed on LWOP for non-compliance with the policy on COVID-19 vaccination.

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[30] See pages GD2-41 to GD2-76.
[31] See page GD24-14.

[54] I find there is sufficient evidence that the Appellant knew the employer had a COVID-19 policy requiring all employees to be fully vaccinated against COVID-19 if they were not granted a medical or religious accommodation. That policy and the framework for implementation of that policy considers the Appellant as an employee unwilling to be fully vaccinated at the time his accommodation request was denied and he remained unvaccinated. So, he knew or ought to have known that when his accommodation request was denied, and he failed to be vaccinated, he was non-compliant with the employer's COVID-19 policy and would be placed on an involuntary LWOP (suspended).

[55] I acknowledge the Appellant has a right to decide whether to be vaccinated. That said, it is more likely than not that the Appellant knew the consequences of not complying with the policy, which included being placed on an involuntary LWOP (suspension). Despite knowing these were the consequences, the Appellant made the wilful and deliberate decision to not comply with the employer's policy. This wilful act of non-compliance constitutes misconduct as it led to the loss of his employment.

– **Additional arguments**

[56] Even though the employer may not have used the word misconduct in its policy or communications to the Appellant, it doesn't change a finding of misconduct under the EI law. This is because "misconduct" has a specific meaning for EI purposes that does not necessarily correspond to its use under employment law or in the context of the Appellant's specific employment.

[57] As stated above, a claimant may be disentitled from receiving EI benefits because of misconduct, but that doesn't necessarily mean their actions have wrongful intent (in other words, he doesn't have to mean to be doing something wrong) for their behaviour to be misconduct under the EI law.

[58] A finding of misconduct is not based on the way the Appellant's employer, pension department, or union, treats the time he was placed on an involuntary LWOP, in the context of his employment. Instead, I must consider the facts before me and

determine whether the Appellant's actions constitute misconduct in accordance with Employment Insurance law.

[59] As explained during the hearing, it is the facts that lead to a finding of suspension for misconduct. Misconduct is not determined based solely on comments listed on a Record of Employment (ROE).

[60] I accept that the employer has a right to manage their day-to-day operations, which includes the authority to develop and impose practices and policies at the workplace, to ensure the health and safety of all employees and the Canadians they interact with. The duty the Appellant owed to his employer was to comply with the employer's policy, which set out the requirements that vaccination against COVID-19 was a condition to continue working.[32]

[61] I disagree with the Appellant's interpretation of how older case law, such as *Canada (Attorney General) v Lemire,* A-51-10 is to be considered in this case when determining whether a breach of an expressed or implied duty results from the Appellant's contract of employment, which he says is his collective agreement.

[62] Instead, I must rely on more recent case law, which has upheld several cases similar to the Appellant's. For example, in *Brown v Canada (Attorney General),* 2024 FC 1544, Ms. Brown worked for the Canadian Food Inspection Agency, a federal government agency, which fell under the same COVID-19 vaccination policy as the Appellant. This Federal Court decision sets out the abundant and unanimous case law from the Federal Court of Appeal and Federal Court maintaining findings of misconduct in cases where a claimant fails to comply with the employer's COVID-19 vaccination policy.

[63] Another recent decision was *Murphy v Canada (Attorney General),* 2024 CF 1356 (this decision was issued in French). In this case Ms. Murphy worked for the Federal Government Department of Justice. Her employment fell under the same

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[32] See *Brown v Canada (Attorney General),* 2024 FC 1544; *Murphy v Canada (Attorney General),* 2024 CF 1356; and *MN v Canada Employment Insurance Commission,* AD-22-628.

COVID-19 vaccination policy as the Appellant. The Court determined that misconduct refers to the more general duty owed by employees to employers in the broadest sense and is not just limited to the performance of duties by employee. The Court maintained that Ms. Murphy failed to comply with the employer's policy and upheld the Tribunal's determination that she was suspended due to misconduct.

[64] The Appellant argued that a decision issued by my colleague from this Tribunal, supports that his appeal should be allowed because he disagrees with the way his employer denied his accommodation request.[33] It is not up to this Tribunal to determine whether the employer acted properly when denying his accommodation requests.[34] There are other forums where the Appellant may raise such an argument.

[65] The Appellant also argued how another appeal was allowed by my colleague in *AL v Canada Employment Insurance Commission,* GE-22-1889. But that decision was overturned by the Tribunal's Appeal Division.[35]

[66] I am not persuaded by the Appellant's arguments that his appeal should be allowed because he disagrees with the contents of the Commission's Supplementary Records of Claim so he should be given the benefit of doubt. He cited older case law, which he asserts is still good law.[36] That is because the Appellant's testimony and documents on file support there is no doubt that the Appellant knew of the employer's policy, he had access to that policy, and that policy required all employees who were not granted accommodation to be vaccinated against COVID-19, or they would be placed on an involuntary LWOP (suspended).

[67] Further, I am not persuaded by the Appellant's arguments that his appeal should be allowed because he feels the information about how the employer considered or treated his involuntary LWOP was ambiguous or confusing, so he should be given the

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[33] See *DL v Canada Employment Insurance Commission*,2022 SST 281.
[34] See *Brown v Canada (Attorney General),* 2024 FC 1544.
[35] See *Canada Employment Insurance Commission* v *AL*, 2023 SST 1032.
[36] The Appellant cited Rizzo & Rizzo Shoes Ltd. (Re), 1998 CanLII 837 (SCC), [1998] 1 SCRT1; "*Belevance", Meunier v Canada Employment and Immigration Commission,* A-130-96; and *Lemire v Canada (Attorney General)*, 2021 FCA 314, in support of his arguments.

benefit of the doubt.[37] Again, the issue to be determined is not how the employer, the pension department, or his union viewed or treated his involuntary LWOP (suspension). Whether the Appellant relied on unfounded assumptions that he would be entitled to EI benefits is also not the issue to be determined. Instead, I must consider whether the facts show the Appellant was suspended for his actions that are misconduct under the EI law.

[68] The Federal Court and Federal Court of Appeal have both said the question of whether an employer has failed to accommodate an employee under human rights law is not relevant to the question of misconduct under the EI Act. This is because it is not the employer's conduct at issue. Such issues may be dealt with in other forums.[38]

[69] I don't have the authority to determine whether the employer's actions or policy was unlawful. Equally, I do not have the authority to decide whether the employer breached any of the Appellant's rights as an employee when they placed him on an involuntary LWOP (suspended him), or whether they could or should have accommodated him in some other way. The Appellant's recourse against his employer is to pursue his claims through his union, in Court, or any other tribunal that may deal with those particular matters.

[70] The purpose of the EI Act is not to compensate persons who have been placed on involuntary leave without pay (suspended) and who are without work. Being entitled to EI benefits is not an automatic right, even if a claimant has paid EI premiums.

[71] In my view, the Appellant didn't stop working voluntarily. This is because the Appellant chose not to comply with the employer's policy requirements, which directly led to his suspension. He acted deliberately.

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[37] See *Meunier v Canada (Employment and Immigration Commission),*1996 CanLII 3983 (FCA); *Canada (Attorney General) v McLaughlin,* A-244-94; and *Astolfi v Canada (Attorney General*), 2020 FC 30 (CanLII); and

[38] See *Brown v Canada (Attorney General),* 2024 FC 1544; *Mishibinijima v Canada (Attorney General),* 2007 FCA 36 and *Canada (Attorney General) v McNamara*, 2007 FCA 107. See also *Paradis v Canada (Attorney General),* 2016 FC 1282.

[72] The Appellant was suspended starting February 11, 2022. He returned to work on June 20, 2022, when the employer lifted its COVID-19 vaccination policy mandate. His benefit period started on Sunday, February 13, 2022. So, the Appellant is disentitled during the period of suspension from February 14, 2022, to June 17, 2022.[39]

Conclusion

[73] The Appellant was suspended because of misconduct. Because of this, the Appellant is disentitled from EI benefits from February 14, 2022, to June 17, 2022.

[74] The appeal is dismissed.

Linda Bell

Member, General Division – Employment Insurance Section

[39] Section 31 of the EI Act says a claimant who is suspended due to misconduct is disentitled until the week in which the claimant is dismissed from their employment. The disentitlement is imposed on any normal workday (Monday through Friday) that the claimant is not entitled to EI benefits.