



Citation: *MR v Canada Employment Insurance Commission*, 2025 SST 48

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: M. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (685799) dated October 22, 2024
(issued by Service Canada)

Tribunal member: Audrey Mitchell

Type of hearing: Teleconference

Hearing date: January 7, 2025

Hearing participant: N/A

Decision date: January 10, 2025

File number: GE-24-3674

Decision

[1] The appeal is dismissed. The Appellant received earnings. And the Canada Employment Insurance Commission (Commission) allocated (in other words, assigned) those earnings to the right weeks.

Overview

[2] The Appellant got a \$2,500 bonus from his employer. The Commission decided that the money is “earnings” under the law because it a one-time bonus paid to the Appellant because the company was sold.

[3] The law says that all earnings have to be allocated to certain weeks. What weeks earnings are allocated to depends on why you received the earnings.¹

[4] The Commission allocated the earnings to the week from June 16 to 22, 2024. The Commission said the bonus the Appellant received is earnings.

[5] The Appellant says the bonus was owed to him in the previous year of his employment with the employer. He says it was compensation for work he performed before the end of his employment, so it should not be considered as income received after his employment ended.

Matter I have to consider first

The Appellant wasn’t at the hearing

[6] The Appellant wasn’t at the hearing. A hearing can go ahead without the Appellant if the Appellant got the notice of hearing.² I think that the Appellant got the notice of hearing because the Tribunal sent it to him at the email address he gave. And he’s considered to have received it on the next business day.³ The Tribunal also sent

¹ See section 36 of the *Employment Insurance Regulations* (EI Regulations).

² Section 58 of the *Social Security Tribunal Rules of Procedure* sets out this rule.

³ See section 22(3) of the *Social Security Tribunal Rules of Procedure*.

the Appellant an email to remind him of the hearing. So, the hearing took place when it was scheduled, but without the Appellant.

Issues

[7] I have to decide the following two issues:

- a) Is the money that the Appellant received earnings?
- b) If the money is earnings, did the Commission allocate the earnings correctly?

Analysis

Is the money that the Appellant received earnings?

[8] Yes, the \$2,500 bonus that the Appellant received is earnings. Here are my reasons for deciding that the money is earnings.

[9] The law says that earnings are the entire income that you get from any employment.⁴ The law defines both “income” and “employment.”

[10] **Income** can be anything that you got or will get from an employer or any other person. It doesn’t have to be money, but it often is.⁵

[11] **Employment** is any work that you did or will do under any kind of service or work agreement.⁶

[12] The Appellant’s employer gave the Appellant a \$2,500 bonus. The Commission decided that this money was a one-time bonus paid to the Appellant. It said that because the bonus was paid to the Appellant because the company was sold on June 20, 2024, it is earnings under the law.

⁴ See section 35(2) of the EI Regulations.

⁵ See section 35(1) of the EI Regulations.

⁶ See section 35(1) of the EI Regulations.

[13] The Appellant has to prove that the money is **not** earnings. The Appellant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that the money isn't earnings.

[14] The Appellant was let go from his job. So, he applied for EI benefits. The Appellant told the Commission that he stopped working in February, but he received an eight-week salary continuance.

[15] The employer issued two records of employment. The first shows that the last day the Appellant was paid for was April 30, 2024. The amended record of employment that shows a \$2,500 payment in the pay period ending on June 21, 2024.

[16] The Commission spoke to the employer about money it paid the Appellant after he stopped working. The employer said it paid the Appellant a \$2,500 bonus because the company was sold. The employer said the CEO chose to forego a payment so that it could be given to employees of the company as a gift.

[17] The employer told the Commission that the company was purchased as of June 20, 2024, and this is the week the bonus was payable. The employer said employees who had been employed up to January 2024 were eligible for the bonus.

[18] I could not ask the Appellant about what the employer told the Commission. This is because he didn't attend the hearing. But in his notice of appeal, he said the \$2,500 was a bonus that was owed to him in previous years of his employment with the employer. He characterized it as "compensation for work performed prior to the end of [his] employment".

[19] The Appellant attached a letter to his notice of appeal that he got from his employer about the bonus. The letter states that the bonus would be paid because of the company's recent transaction with another company. It says the "one-time bonus is based on a combination of [the Appellant's] tenure with the company as well as a discretionary component".

[20] I find that the \$2,500 the employer paid the Appellant is a bonus. I find that the letter the Appellant sent the Tribunal supports what the employer told the Commission. It confirms that the money was paid from the personal proceeds of the sale to express appreciation for employees' hard work and contributions.

[21] I find that the reason the employer paid the Appellant the money will only affect how it is allocated. But I find that the \$2,500 bonus the employer paid the Appellant is earnings. I do so because it arose out of the Appellant's employment.

Did the Commission allocate the earnings correctly?

[22] The law says that earnings have to be allocated to certain weeks. What weeks earnings are allocated to depend on why you received the earnings.⁷

[23] If earnings in the form of a bonus is based specifically on a claimant's performance of services, they are allocated to the period when the services were performed.⁸ If these earnings are linked to a holiday, they are allocated to the week when the holiday occurs.⁹ If no other section detailing how earnings should be allocated applies, the earnings are allocated to the week the services are performed or the transaction occurs.¹⁰

[24] The Appellant got earnings in the form of a one-time bonus. The Appellant's employer gave him those earnings in appreciation for the work the Appellant and other employees. It said the bonus was based on a combination of tenure with the company and a discretionary component.

[25] The Commission said the employer paid the bonus to the Appellant because of the sale of the company. So, it allocated the earnings to the week of June 16, 2024, which is the week of the transaction.

⁷ See section 36 of the EI Regulations.

⁸ See section 36(4) of the EI Regulations.

⁹ See section 36(13) of the EI Regulations.

¹⁰ See section 36(19) of the EI Regulations.

[26] As noted above, the Appellant said the employer paid the bonus for work done in previous years. So, he suggested that it should not be allocated to the week of June 16, 2024, since this is after he stopped working for the employer.

[27] The Commission argued that the letter from the employer doesn't say that the bonus was paid as compensation for the work done in the previous year; rather, it says the bonus was paid because of the sale of the company. The Commission said performance bonuses are generally based on things like exceeding levels of production, sales, or service. But the letter doesn't say anything about past performance.

[28] I find that the letter refers only generally to the Appellant's "hard work and contributions" that helped with the sale of the company. And the employer said the \$2,500 was a one-time bonus, based on the Appellant's tenure with the company and a discretionary component.

[29] Again, because the Appellant didn't attend the hearing, I could not ask him about bonuses he may have received in the past, and if so, whether they were linked to performance targets or if they were linked to events.

[30] In the absence of additional evidence, I find that the \$2,500 bonus was a one-time bonus linked to the sale of the company. I don't find from the letter from the employer that it was linked to the Appellant's performance; rather, I accept as fact that it was based on the Appellant's tenure with the company as well as a discretionary component. So, I find that the \$2,500 has to be allocated to the week the transaction occurred.

[31] Based on the above, I find that since company was sold on June 20, 2024, the Commission correctly allocated the Appellant's earnings to the week of June 16, 2024.

Conclusion

[32] The appeal is dismissed.

[33] The Appellant received \$2,500 in earnings. And the Commission correctly allocated the earnings.

Audrey Mitchell

Member, General Division – Employment Insurance Section