



Citation: *AA v Canada Employment Insurance Commission*, 2024 SST 1673

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: A. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (618579) dated October 16, 2023
(issued by Service Canada)

Tribunal member: Gary Conrad

Type of hearing: Teleconference

Hearing date: December 18, 2023

Hearing participant: Appellant

Decision date: January 2, 2024

File number: GE-23-3098

Decision

[1] The appeal is allowed.

[2] The Appellant selected standard parental benefits on her application form, and she was paid her entire allotment of 35 weeks of standard parental benefits until the end of her benefit period, so her benefits can be reverted back to standard parental benefits.

Overview

[3] The Appellant applied for maternity benefits to be followed immediately by parental benefits. On her application the Appellant said that she wanted to be paid 35 weeks of standard parental benefits.

[4] In June 2022, prior to the payment of any parental benefits, the Appellant called the Commission and asked for her benefits to be changed to extended parental benefits.

[5] The Commission did not immediately act on the Appellant's request to change the type of parental benefits to extended. In fact, they delayed until May 2023. By that time the Appellant had been paid her entire allotment of standard parental benefits, her benefit period had ended in March 2023, and she had gone back to work, also in March 2023.

[6] The Commission's decision to change her parental benefit type to extended after her benefit period ended and she had returned to work, resulted in the Appellant being asked to pay back a large amount of money.

[7] The Appellant says that she does not want extended parental benefits. She says that she wants to keep standard benefits which she had applied for and had been paid prior to her return to work and decline the extended benefits.

[8] The Commission says that the Appellant asked for her benefit type to be changed before she was paid any parental benefits. This means her request to change

to extended is legitimate and valid and could not be changed once she was paid parental benefits.

[9] However, the Commission says that in this instance, they are willing to revert her benefit type back to standard since she was paid the entire allotment of standard benefits.¹

Issue

[10] Can the Appellant's parental benefits be reverted to standard?

Analysis

[11] The Court has been clear in a myriad of decisions, that whatever a claimant chooses on their application for parental benefits, once payment of those benefits have started, it is impossible for the Commission, the General Division of the Tribunal, or the Appeal Division of the Tribunal to revoke, alter, or change the election.²

[12] However, I find that is not what the Appellant is asking for. She is not asking to change what she selected on her application after that type of benefit was paid. What she is asking for is the exact opposite, that there be no change from what she selected on her application (standard) and what benefits she was paid (standard).

[13] I find, that since what the Appellant is asking for is completely in line with the Courts decisions, and the Commission has agreed to revert the Appellant's benefit type back to the standard benefits she originally selected and was paid,³ the Appellant's claim can be reverted to standard.

¹ GD07

² See *Canada (Attorney General) v Hull*, 2022 FCA 82 at paragraphs 62-64 and *Canada (Attorney General) v Jeffers*, 2023 FCA 52 at para 11, as just a couple examples.

³ GD07

Conclusion

[14] The appeal is allowed.

[15] The Appellant selected standard parental benefits on her application and was paid her entire allotment of standard parental benefits, so her benefits can be reverted to standard parental benefits.

Gary Conrad

Member, General Division – Employment Insurance Section