



Citation: *ZL v Canada Employment Insurance Commission*, 2025 SST 161

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: Z. L.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (694953) dated December 5,
2024 (issued by Service Canada)

Tribunal member: Gerry McCarthy

Type of hearing: Videoconference

Hearing date: January 14, 2025

Hearing participant: Appellant

Decision date: January 15, 2025

File number: GE-24-4155

Decision

[1] The appeal is dismissed.

[2] The Appellant hasn't shown that he had good cause for the delay in claiming Employment Insurance (EI) benefits. In other words, the Appellant hasn't given an explanation that the law accepts. This means the Appellant's claims can't be treated as though they were made earlier.

Overview

[3] In general, to receive EI benefits, you have to make a claim for each week that you didn't work and want to receive benefits.¹ You make claims by submitting reports to the Canada Employment Insurance Commission (Commission) every two-weeks. Usually, you make your claims online. There are deadlines for making claims.²

[4] The Appellant made his claims after the deadline. He wants them to be treated as though they were made earlier on November 19, 2023.

[5] For this to happen, the Appellant has to prove that he had good cause for the delay.

[6] The Commission decided the Appellant didn't have good cause and refused the Appellant's request. The Commission says the Appellant didn't have good cause, because a reasonably prudent person in his situation would have contacted them sooner to inquire about payment.

[7] The Appellant disagrees and says he moved in late December 2023 and didn't receive his Access Code until June 2024. He further says he was expecting some updates from Service Canada about his claim.

¹ See section 49 of the *Employment Insurance Act* (EI Act).

² See section 26 of the *Employment Insurance Regulations*.

Matters I have to consider first

Interpreter

[8] The Interpreter (Ms. Cindy Huang) attended the hearing and was sworn-in to provide interpretation for the Appellant from Mandarin to English and from English to Mandarin. However, the Appellant didn't require any interpretation services during the hearing.

Issue

[9] Did the Appellant have good cause for the delay in claiming EI benefits?

Analysis

[10] The Appellant wants his claims for EI benefits to be treated as though they were made earlier on November 19, 2023. This is called antedating (or, backdating) the claims.

[11] To get a claim antedated, the Appellant has to prove that he had good cause for the delay during the entire period of the delay.³ 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 he had good cause for the delay.

[12] And, to show good cause, the Appellant has to prove that he acted as a reasonable and prudent person would have acted in similar circumstances.⁴ In other words, he has to show that he acted reasonably and carefully just as anyone else would have if they were in a similar situation.

[13] The Appellant also has to show that he took reasonably prompt steps to understand his entitlement to benefits and obligations under the law.⁵ This means that the Appellant has to show that he tried to learn about his rights and responsibilities as

³ See *Paquette v Canada (Attorney General)*, 2006 FCA 309; and section 10(5) of the EI Act.

⁴ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

⁵ See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

soon as possible and as best he could. If the Appellant didn't take these steps, then he must show there were exceptional circumstances that explain why he didn't do so.⁶

[14] The Appellant has to show that he acted this way for the entire period of the delay.⁷ That period is from the day he wants his claims antedated to until the day he actually made the claim. So, for the Appellant, the Commission says the period of the delay is from November 19, 2023, to July 27, 2024.

[15] The Appellant says he had good cause for the delay because he moved from Burnaby (British Columbia) to Surrey (British Columbia) in late December 2023 and didn't receive his Access Code until June 2024.

[16] The Commission says the Appellant didn't show good cause for the delay, because a reasonably prudent person in his situation would have contacted them sooner to inquire about payment.

[17] I find the Appellant hasn't proven he had good cause for the delay in filing his reports for the following reasons:

[18] First: The Appellant didn't act as a reasonable and prudent person and go in-person to a Service Canada Centre and inquire about his claim and lack of EI benefits. I realize the Appellant testified he tried to contact Service Canada by telephone in late February 2024 (or early March 2024), but the office was closed at the time. Still, a reasonable and prudent person would have gone to a Service Canada Centre in-person and spoken directly with a Service Canada officer about his claim. Instead, the Appellant waited until **June 29, 2024**, to try and process his reports for the weeks of November 19, 2023, to December 2, 2023. These attempts by the Appellant failed since the report had to be processed at the latest on December 23, 2023 (GD3-20 to GD3-22).

⁶ See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

⁷ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

[19] Second: There were no exceptional circumstances in this case. Specifically, there were no exceptional circumstances that prevented the Appellant from inquiring about his claim and why he hadn't received any payments. I recognize the Appellant moved in late December 2023 and didn't receive his Access Code until June 2024. Nevertheless, the Appellant could have contacted Service Canada in-person and made inquiries about why he hadn't received any EI benefits. On this matter, I wish to emphasize that the Appellant confirmed he received a letter from the Commission dated December 8, 2023. The letter from the Commission explained that the Appellant's separation monies were applied against his benefits from November 19, 2023, to December 9, 2023. The Commission further wrote in the letter that: "Because these amounts have already been applied against your benefits, **do not include them in your reports**" (GD3-17).

Additional Testimony from the Appellant

[20] During the hearing, I asked the Appellant why he delayed in attempting to contact Service Canada until late February 2024 or early March 2024. The Appellant testified that he was "financially fine" and looking for work. As a result, the Appellant explained that he "didn't push too much." I commend the Appellant for his attempts to find employment. Nevertheless, the case law has consistently affirmed that searching for employment wasn't sufficient to establish **good cause** for a delay in filing claimant reports.⁸

[21] I recognize the Appellant further testified that he tried to update his Service Canada account with his new address in early 2024, but error messages came up. However, a reasonable and prudent person would have spoken directly to a Service Canada officer over the telephone about his claim or travelled in-person to a Service Canada Centre to make inquiries about his lack of EI benefits.

[22] I further realize the Appellant testified that he should have received "some updates" from the Commission so he could make a decision. However, as mentioned the Appellant confirmed during the hearing he received a letter from the Commission

⁸ *Shebib v Canada (Attorney General)*, 2003 FCA 88.

(dated December 8, 2023) which explained that his separation monies had been applied to his claim until December 9, 2023, and not to include these monies **on his reports (GD3-17)**.

[23] Finally, the Appellant wrote in his Notice of Appeal that: “When I had the call with an agent from Service Canada to reactivate my claim in June, I asked how they would deal with my missing payment from January to June. The agent told me the total amount of EI that I am supposed to receive should remain the same, which means I should continue receiving EI even if the End Date of Claim passes” (GD2). However, the issue before me is whether the Appellant had **good cause for his delay** in filing his claimant reports from **November 19, 2023, to July 27, 2024**. On this matter, I must apply the law to the evidence before me. In other words, I cannot ignore or re-fashion the law even for compassionate reasons.⁹

Conclusion

[24] The Appellant hasn’t proven that he had good cause for the delay in making his claims for benefits throughout the entire period of the delay. This means that his claims can’t be treated as though they were made earlier.

[25] The appeal is dismissed.

Gerry McCarthy

Member, General Division – Employment Insurance Section

⁹ *Knee v Canada (Attorney General)*, 2011 FCA 301.