



Citation: *JM v Canada Employment Insurance Commission*, 2025 SST 424

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

## **Decision**

**Appellant:** J. M.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (690955) dated November 19,  
2024 (issued by Service Canada)

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**Tribunal member:** Gary Conrad

**Type of hearing:** Teleconference

**Hearing date:** March 31, 2025

**Hearing participant:** Appellant

**Decision date:** April 2, 2025

**File number:** GE-25-845

## Decision

[1] The appeal is dismissed.

[2] The Appellant's Workers' Compensation Benefits (WCB) payments are earnings, and earnings must be allocated.

[3] The WCB payments should be allocated at a rate of \$754.32 a week from March 17, 2024, to July 13, 2024.

[4] While this results in a large overpayment for the Appellant, I cannot erase this overpayment. He must speak to the Commission about erasing it, if he has not already done so.

## Overview

[5] The Appellant applied for Employment Insurance (EI) benefits in March 2024 and said that he was getting WCB in the amount of \$754.32 per week.<sup>1</sup>

[6] On April 30, 2024, he spoke with the Commission and told them that his WCB amount had changed in February 2024, and he was getting \$289.09 weekly.<sup>2</sup>

[7] The Commission allocated this \$289.09 from the start of his benefit period onward.<sup>3</sup>

[8] The Appellant then sent the Commission a letter from WCB which said the Appellant had been getting \$754.32 a week since February 2024.<sup>4</sup>

[9] The Commission then called WCB, and WCB confirmed the Appellant was getting \$754.32 a week and the last week he was paid WCB was the week of July 12, 2024.<sup>5</sup>

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<sup>1</sup> GD03-12

<sup>2</sup> GD03-27

<sup>3</sup> GD03-30

<sup>4</sup> GD03-33 and 34

<sup>5</sup> GD03-36

[10] The Commission called the Appellant, and he confirmed he had been paid \$754.32 a week and his payments ended the week of July 12, 2024.<sup>6</sup>

[11] As a result, the Commission redid the allocation using the amount of \$754.32 a week. This resulted in a large overpayment for the Appellant.<sup>7</sup>

[12] The Appellant says that he gave all the information about his WCB to the Commission and was transparent about everything. He says that this entire issue is not his fault, and he should not be penalized for something that is not his fault.

## **Issues**

[13] Is the money that the Appellant received earnings?

[14] If the money is earnings, did the Commission allocate the earnings correctly?

[15] Can I write off the overpayment?

## **Analysis**

### **Is the money that the Appellant received earnings?**

[16] Yes, the \$754.32 a week the Appellant received as WCB is earnings. Here are my reasons for deciding that the money is earnings.

[17] The Appellant agrees that he was getting periodic WCB payments in the amount of \$754.32 per week.

[18] The law says that earnings include periodic WCB payments,<sup>8</sup> so this means the \$754.32 per week the Appellant was receiving from WCB is earnings.

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<sup>6</sup> GD03-37

<sup>7</sup> GD03-38

<sup>8</sup> See section 35(2)(b) of the EI Regulations.

## **Did the Commission allocate the earnings correctly?**

[19] The law says that earnings have to be allocated to certain weeks. What weeks earnings are allocated to depends why the Appellant received the earnings.<sup>9</sup>

[20] The Appellant's earnings are periodic WCB payments.

[21] The law states that periodic WCB payments should be allocated to the period for which they are paid.<sup>10</sup>

[22] I find the Appellant was paid \$754.32 a week in periodic WCB payments from the start of his benefit period (March 17, 2024) to July 12, 2024, because WCB confirmed this,<sup>11</sup> and the Appellant agrees with this as well.<sup>12</sup>

[23] I find the Commission correctly allocated the Appellant's WCB payments as they say they allocated the WCB at a rate of \$754.32 a week over the period it was paid (March 17, 2024, to July 13, 2024),<sup>13</sup> which is how the law says WCB payments should be allocated.<sup>14</sup>

## **Writing off the overpayment**

[24] I understand the Appellant's frustration that he is facing an overpayment, since he says he was fully transparent with the Commission and that nothing was his fault.

[25] To me, it appears this entire issue stems from a phone conversation he had with the Commission on April 30, 2024. The Commission's notes of that conversation state the Appellant told them that his WCB payment became \$289.09 per week starting

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<sup>9</sup> See section 36 of the EI Regulations.

<sup>10</sup> See section 36(12)(d) of the EI Regulations

<sup>11</sup> GD03-36

<sup>12</sup> GD03-37

<sup>13</sup> GD04-3. While they say they allocated to July 13, 2024, and the payments stopped July 12, 2024, this is not an error on the Commission's part. In EI a week starts on Sunday, so the Commission is saying they allocated the WCB payments to the week ending July 13, 2024, so they still did it correctly, ending the allocation after the week the WCB payments stopped. In other words, they did not allocate any WCB to the week starting July 14, 2024, because the Appellant did not receive any WCB payments that week. The week ending July 13, 2024, is the last week they allocated any WCB payments.

<sup>14</sup> See section 36(12)(d) of the EI Regulations

February 17, 2024,<sup>15</sup> and so the Commission used that number to allocation his WCB, rather than the correct amount of \$754.32 a week.

[26] Unfortunately, while this all seems to stem from a misunderstanding, and it was not like the Appellant did anything wrong, I cannot alter the law. His WCB payments, which are earnings, must be allocated at the rate they were paid over the period they were paid, and unfortunately the Commission did not do so properly the first time they allocated the WCB. It is the correction of the initial allocation, by using the correct amount of WCB, that results in the large overpayment the Appellant is facing.

[27] While I have great sympathy for the Appellant and his financial situation, I cannot write-off his debt. Only the Commission can write off his debt, so he must formally ask the Commission to do this if he has not already done so.

[28] Also, any decision made by the Commission about writing off his debt cannot be appealed to me.<sup>16</sup>

[29] If the Commission refuses to write off the Appellant's debt, then he can contact the Canada Revenue Agency to try and negotiate a payment plan.

## **Conclusion**

[30] The appeal is dismissed.

[31] The Appellant has earnings in the form of periodic WCB payments.

[32] The WCB payments should be allocated at a rate of \$754.32 a week from March 17, 2024, to July 13, 2024.

Gary Conrad  
Member, General Division – Employment Insurance Section

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<sup>15</sup> GD03-27

<sup>16</sup> See section 112.1 of the EI Act.