



Citation: *RM v Canada Employment Insurance Commission*, 2025 SST 444

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: R. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (691920) dated November 21,
2024 (issued by Service Canada)

Tribunal member: Harkamal Singh

Type of hearing: Teleconference

Hearing date: March 5, 2025

Hearing participants: Appellant

Decision date: March 24, 2025

File number: GE-25-299

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.

[2] The Appellant hasn't shown that he had good cause for the delay in applying for benefits. In other words, the Appellant hasn't given an explanation that the law accepts. This means that the Appellant's application can't be treated as though it was made earlier.¹

Overview

[3] The Appellant applied for Employment Insurance (EI) benefits on November 17, 2023. He is now asking that the application be treated as though it was made earlier, specifically from April 30, 2017. The Canada Employment Insurance Commission (Commission) has already refused this request.

[4] I have to decide whether the Appellant has proven that he had good cause for not applying for benefits earlier.

[5] The Commission says that the Appellant did not have good cause because he failed to act as a reasonable person would have to verify his rights and obligations regarding EI benefits after he stopped working. They argue he made no effort to inquire or clarify his eligibility for EI benefits until several years later.

[6] The Appellant disagrees and says he genuinely misunderstood the rules. He believed that receiving Canada Pension Plan (CPP) and Old Age Security (OAS) benefits meant he was not eligible for EI, and only learned otherwise from a friend in November 2020 and later from Service Canada in June 2023. He argues this misunderstanding was honest and reasonable under the circumstances.

¹Section 10(4) of the *Employment Insurance Act* (EI Act) uses the term "initial claim" when talking about an application.

Issue

[7] Can the Appellant's application for benefits be treated as though it was made on April 30, 2017? This is called antedating (or, backdating) the application.

Analysis

[8] To get your application for benefits antedated, you have to prove these two things:²

- a) You had good cause for the delay during the entire period of the delay. In other words, you have an explanation that the law accepts.
- b) You qualified for benefits on the earlier day (that is, the day you want your application antedated to).

[9] The main arguments in this case are about whether the Appellant had good cause. So, I will start with that.

[10] To show good cause, the Appellant has to prove that he acted as a reasonable and prudent person would have acted in similar circumstances.³ 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.

[11] The Appellant has to show that he acted this way for the entire period of the delay.⁴ That period is from the day he wants his application antedated to until the day he actually applied. So, for the Appellant, the period of the delay is from April 30, 2017 to November 17, 2023.

[12] 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

²See section 10(4) of the EI Act.

³See *Canada (Attorney General) v Burke*, 2012 FCA 139.

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

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

the Appellant has to show that he tried to learn about his rights and responsibilities as soon as possible and as best he could. If the Appellant didn't take these steps, then he must show that there were exceptional circumstances that explain why he didn't do so.⁶

[13] 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.

[14] The Appellant says that he had good cause for the delay because he genuinely misunderstood the rules. He believed that receiving CPP and OAS benefits made him ineligible for EI, and he did not know otherwise until November 2020 when informed by a friend, and again in June 2023 during a conversation with a Service Canada Officer.⁷

[15] The Commission says that the Appellant hasn't shown good cause for the delay because he did not act as a reasonable and prudent person to verify his eligibility for EI benefits. Specifically, they argue that misunderstanding or ignorance of eligibility rules does not constitute good cause, and that he made no effort to clarify his understanding with Service Canada until several years later.⁸

[16] I find that the Appellant hasn't proven that he had good cause for the delay in applying for benefits. While I understand that the Appellant genuinely misunderstood the rules about EI eligibility and thought that receiving CPP and OAS disqualified him, the legal requirement is clear that ignorance of the law is not sufficient on its own to establish good cause. A reasonable and prudent person in the Appellant's situation would have taken prompt steps to verify their eligibility for EI benefits, especially given the substantial duration of the delay.

[17] The Appellant's evidence indicates that he did not take any steps to confirm his understanding or seek clarification until he was informed by a friend in November 2020, which was over three years after the initial delay period started.⁹ Even after becoming

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

⁷GD3A-30, GD3A-42 to GD3A-43

⁸GD4A-4

⁹GD3A-30

aware of his potential eligibility in November 2020, he did not apply immediately and waited until November 2023, almost three additional years, to file his application.

[18] I give significant weight to the length and continuity of the Appellant's delay, finding it to be excessive and unexplained by exceptional circumstances. The Appellant's belief that his CPP and OAS benefits prevented him from claiming EI was sincere but does not meet the standard of a reasonable and prudent action expected under the law. There is no evidence of exceptional circumstances that would excuse such a prolonged period of delay in seeking information or clarification about his rights and obligations.

[19] I don't need to consider whether the Appellant qualified for benefits on the earlier day. If the Appellant doesn't have good cause, his application can't be treated as though it was made earlier.

Conclusion

[20] The Appellant hasn't proven that he had good cause for the delay in applying for benefits throughout the entire period of the delay.

[21] The appeal is dismissed.

Harkamal Singh
Member, General Division – Employment Insurance Section