[TRANSLATION]

Citation: *ML v Canada Employment Insurance Commission*, 2025 SST 793

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	M L.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (735406) dated June 5, 2025 (issued by Service Canada)

Tribunal member:	Jean Yves Bastien
Type of hearing:	Teleconference
Hearing date:	July 18, 2025
Hearing participants:	Appellant
Decision date:	August 1, 2025
File number:	GD-25-1846

Decision

[1] The appeal is allowed. The Tribunal agrees with the Appellant.

[2] The Appellant has shown that there were exceptional circumstances that give her good cause for the delay in applying for benefits. In other words, the Appellant has given an explanation that the law accepts. This means that the Appellant's application can be treated as though it was made earlier.[1]

Overview

[3] The Appellant worked for a municipality in Quebec as a communications professional. She had health issues. So, her doctor advised her to leave her job, which she did voluntarily on November 11, 2024.

[4] The Appellant applied for Employment Insurance (EI) benefits on February 4, 2025. She is now asking that the application be treated as though it was made earlier, on November 10, 2024. The Canada Employment Insurance Commission (Commission) has already refused this request.

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

[6] The Commission says that the Appellant didn't have good cause because she didn't do what a "reasonable person" would have done in her situation to find out her rights and obligations under the law.

[7] The Appellant disagrees. Instead, she says that the circumstances were exceptional, which gives her good cause for the delay in applying for benefits.

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

Issue

[8] Can the Appellant's application for benefits be treated as though it was made on November 10, 2024? This is called antedating (or, backdating) the application.

Analysis

[9] 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).

[10] The Commission says that the Appellant qualified for benefits on the earlier day. I accept this. So, I will now look at whether the Appellant had good cause.

[11] To show good cause, the Appellant has to prove that she acted as a reasonable and prudent person would have acted in similar circumstances.[3] In other words, she has to show that she acted reasonably and carefully just as anyone else would have if they were in a similar situation.

[12] The Appellant has to show that she acted this way for the entire period of the delay.[4] That period is from the day she wants her application antedated to until the day she actually applied. So, for the Appellant, the period of the delay is from November 10, 2024, to February 4, 2025.

[13] The Appellant also has to show that she took reasonably prompt steps to understand her entitlement to benefits and obligations under the law.[5] This means that

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[2] See section 10(4) of the EI Act.
[3] See *Canada (Attorney General) v Burke*, 2012 FCA 139.
[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.

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

[14] The Appellant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she had good cause for the delay.

[15] The Appellant says that she acted as a reasonable person would have acted, given her knowledge of the subject. Her mistake wasn't a lack of action but rather a sincere misunderstanding that persisted despite her efforts to find out her eligibility.

[16] The Appellant says that she had good cause for the delay because she still had the psychiatric condition that prompted her doctor to recommend that she leave her job with the municipality. She also argues the following:

- This was her first application for EI benefits.
- She sincerely believed that she wasn't entitled to benefits because she had voluntarily left her job.
- The human resources experts in her personal network (who have professional knowledge in this domain) told her that she wasn't entitled to benefits because she had voluntarily left her job.
- She consulted the Service Canada website. She eventually found the main page that talks about voluntary leaving but could find no exceptions.
- As recently as April 2, 2025, the Commission confirmed this information, telling her that one of the reasons it was denying her claim for benefits was because she had voluntarily left her job.[7]
- She was concerned about her job search.
- She can prove that she was making a sustained and serious job search.

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[6] See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.
[7] See the Commission's decision letter dated April 2, 2025, at GD3-16.

- A Commission agent advised her to ask the Commission to antedate her application for benefits.

[17] The Commission says that the Appellant hasn't shown good cause for the delay because she didn't do what a reasonable person would have done in the same situation—find out her rights and obligations under the law.

[18] The Commission says that the Appellant believed she wasn't entitled to benefits, so she didn't make efforts to find out about the EI program after she left her job. The Commission says that the Appellant also didn't do any in-depth research on the Service Canada website. It says that the Appellant should have discussed her file with a Service Canada agent. The Commission also says that ignorance of the law isn't an excuse.

[19] The Tribunal's Appeal Division has already confirmed the importance of considering evidence about a claimant's psychological condition and its impact. The Appeal Division said the following: "I accept that the psychological condition is an exceptional circumstance, which interfered with the Claimant's ability to enquire into her rights and her obligation and to apply for EI benefits in a timely manner."[8]

[20] The Appeal Division has also said that I must consider the "cumulative impact (or totality) of the [Appellant's] circumstances" that might excuse her from taking reasonably prompt steps to understand her rights and obligations.[9]

[21] Despite being on the road to recovery, the Appellant still had episodes of depression-like symptoms, such as lack of concentration and a feeling of limited competence. This interfered with her comprehension and ability to do in-depth research into her rights and obligations. These issues prevented her from applying for EI benefits within the time frame that a fit person would have been able to meet.

[22] I consider the cumulative impact of the following:

- This was the Appellant's first time applying for EI benefits.

[8] See *SD v Canada Employment Insurance Commission*, AD-23-950.
[9] See *AB v Canada Employment Insurance Commission*, AD-24-94.

- She had a health condition.
- She quickly started networking and gathering information from people working in human resources.
- She promptly searched the Commission's website.
- Her job search appeared sustained.
- She firmly believed that she wasn't entitled to benefits because of her voluntary leaving.
- The Commission confirmed this belief in its initial decision letter, which says that the Appellant isn't entitled to benefits because she voluntarily left her job.

[23] I found the Appellant very credible. Her situation is nuanced, and I prefer her evidence. She described the frustrations that many claimants experience in getting answers to important questions. She logically explained the circumstances she was facing at the time and their cumulative impact. Even the Commission initially thought that the Appellant wasn't entitled to benefits.

[24] So, for the reasons set out above, I find that that there were exceptional circumstances that give the Appellant good cause for the delay in applying for benefits.

[25] This means that the Appellant's application can be treated as though it was made earlier.

Conclusion

[26] The Appellant has proven that she had good cause for the delay in applying for benefits throughout the entire period of the delay.

[27] The appeal is allowed.

Jean Yves Bastien
Member, General Division – Employment Insurance Section