



[TRANSLATION]

Citation: *GS v Canada Employment Insurance Commission*, 2025 SST 831

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: G. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (740328) dated June 6, 2025
(issued by Service Canada)

Tribunal member: Jean Yves Bastien

Type of hearing: In person

Hearing date: August 7, 2025

Hearing participants: Appellant

Decision date: August 12, 2025

File number: GE-25-2053

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 Employment Insurance (EI) 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 is a nurse living in the X region. He left his job on August 20, 2024, when his contract ended.

[4] The Appellant applied for EI benefits on February 15, 2025. He is now asking that the application be treated as though it was made earlier, on August 25, 2024. The Canada Employment Insurance Commission (Commission) has already refused this request.

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

[6] The Commission says that the Appellant didn't have good cause because he waited six months to apply for benefits. The Commission argues that the Appellant didn't act as a reasonable person would have acted when he made the decision not to apply immediately.²

[7] The Appellant disagrees. He says that he didn't apply for EI benefits immediately because he wanted to manage on his own and he had some money set aside.³

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

² See the Commission's representations to the Tribunal at GD4-3.

³ See the Appellant's notice of appeal to the Tribunal at GD2-1.

Issue

[8] Can the Appellant's application for benefits be treated as though it was made on August 25, 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:⁴

- 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] To show good cause, the Appellant has to prove that he acted as a reasonable and prudent person would have acted in similar circumstances.⁵ 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.⁶ 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 August 25, 2024, to February 15, 2025, a period of nearly six months.

[12] The Appellant also has to show that he took reasonably prompt steps to understand his entitlement to benefits and obligations under the law.⁷ This means that the Appellant has to show that he tried to learn about his rights and responsibilities as

⁴ See section 10(4) of the EI Act.

⁵ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

⁶ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

⁷ 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 that there were exceptional circumstances that explain why he didn't do so.⁸

[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 disagrees with the Commission. He admits that he applied for benefits late. But he testified that he believes that he acted as a reasonable person would have acted because EI is there for people who need the help. He argues that he applied only once he had reached the point where he could no longer support himself financially while searching for a job. He finds it unfair that he was denied benefits when he qualified for them and needed them.

[15] The Commission says that the Appellant hasn't proven that he had good cause for the delay. Specifically, he stopped working on August 20, 2024, and didn't apply for benefits until February 17, 2025, six months later. He says that he didn't know there was a deadline to apply. Also, he never contacted the Commission to find out, since he wanted to manage on his own.⁹

[16] The Commission adds that, even if the Appellant has lived with health issues since his accident in 2013, this would not have prevented him from applying for benefits when he left his job on August 20, 2024.

[17] The Commission says that ignorance of the law doesn't amount to good cause unless a person can show that they acted reasonably in the circumstances.¹⁰ It is well established that ignorance of the law and good faith don't amount to good cause.¹¹

[18] I found the Appellant to be very credible. While his philosophy of not asking for help until you really need it is commendable, the *Employment Insurance Act* unfortunately doesn't take this into account. As the Commission noted, ignorance of the

⁸ See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

⁹ See the Commission's representations to the Tribunal at GD4-3.

¹⁰ See *Quadir v Canada (Attorney General)*, 2018 FCA 21.

¹¹ See *Canada (Attorney General) v Carry*, 2005 FCA 367.

law, even when combined with good faith—like the Appellant showed when he refused to use benefits before he really needed them—doesn't amount to good cause.

[19] The Courts have said that you have to look at what a claimant does, not what they intend to do, to see whether there is good cause for the delay in applying for benefits.¹² In this case, what the Appellant did was wait six months before applying for benefits.

[20] So, I find that the Appellant hasn't proven that he had good cause for the delay in applying for benefits.

Conclusion

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

[22] The appeal is dismissed.

Jean Yves Bastien
Member, General Division – Employment Insurance Section

¹² See *Canada (Attorney General) v Kowalchuk*, A-1191-88; and *Canada (Attorney General) v Albrecht*, A-172-85.