



Citation: *BS v Canada Employment Insurance Commission*, 2025 SST 743

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

## **Decision**

**Appellant:** B. S.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (696287) dated December 10,  
2024 (issued by Service Canada)

---

**Tribunal member:** Anita Nathan

**Type of hearing:** Videoconference

**Hearing date:** March 27, 2025

**Hearing participants:** Appellant

**Decision date:** April 11, 2025

**File number:** GE-25-322

## Decision

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

[2] The Appellant didn't knowingly make a false statement, so no penalty will be imposed.

## Overview

[3] To be paid employment insurance (EI) benefits, claimants complete online reports. The reports ask a series of questions. Based on the answers, the Commission decides a claimant's entitlement to EI benefits. The Appellant was receiving EI benefits and in one report she said that she was in Canada when in fact she was outside Canada.

[4] The Commission reviewed the Appellant's answers about whether she was in Canada and determined that the Appellant knowingly made a false statement that she was in Canada when she was not. So, they imposed a penalty.

[5] The Appellant says she mistakenly reported she was in Canada because she did several weeks of reports quickly and was not paying close enough attention to the questions and answers.

## Issue

[6] The issues I must determine are the following:

- a) Did the Commission prove the Appellant knowingly made a false or misleading statement in her claim report?
- b) If so, did the Commission act properly (judicially) when imposing the penalty, and setting the penalty amount?

## Analysis

[7] In the report for the period July 17, 2023, to July 23, 2023, the Appellant said that she was in Canada when in fact she was outside of Canada on vacation.

[8] To prove a misrepresentation, the Commission must prove that it is more likely than not that the Appellant knowingly made a false statement.<sup>1</sup> It is not enough that the information is false or misleading. The Commission must prove that the Appellant **knew** that she was providing information that was false or misleading. If the Commission satisfies its onus, the burden shifts to the Appellant to explain why she gave incorrect answers and show that she did not do it knowingly.<sup>2</sup>

[9] To determine if information was provided knowingly, I have to decide if the Appellant subjectively knew that the statements were false or misleading. Common sense and objective factors should be taken into account when determining if an Appellant had subjective knowledge that the information provided was false.<sup>3</sup>

[10] Once it appears that an Appellant has wrongly answered a very simple question then I can infer the Appellant knew the information was false and misleading.<sup>4</sup> The burden shifts to the Appellant to explain why the incorrect answers were given.

[11] The questions were simple. The report asked whether the Appellant was in or out of the country. Therefore, I can infer that the Appellant knowingly made a false statement.

[12] The Appellant explained that as a youth worker at a school, she has been filing for EI benefits each summer since approximately 2003. When she submits her reports, she navigates the questions quickly and methodically, since her responses are almost always the same. Reporting has become very routine since she has done it every summer for over 20 years.

[13] The Appellant also testified that it is common for her to file multiple reports at once. For the report in issue, she believes that she was late filing her reports and filled reports for four weeks at once. The Appellant explained it was simply an oversight that in one of the reports she forgot to indicate she was out of the country. She often rushes

---

<sup>1</sup> See section 38 of the Act and *Bajwa v Canada*, 2003 FCA 341.

<sup>2</sup> *Nangle v Canada (Attorney General)*, 2003 FCA 210.

<sup>3</sup> *Mootoo v Canada (AG)*, 2003 FCA 206; *Canada (AG) v Gates*, 1995 FCA 600

<sup>4</sup> *Mootoo v Canada (AG)*, 2003 FCA 206

through her reports and answers the questions robotically. She believes this is what she did for the report at issue. She also doesn't verify the amount of benefits she gets paid, so she didn't notice that she got benefits for the period she was out of the country.

[14] I accept the Appellant's explanation about why she gave incorrect information and accept her evidence that she did not do it knowingly. The Appellant was a credible witness, and I have no reason to doubt what she told me. She was open and direct with her answers. I accept that she filed multiples reports quickly and robotically and provided her usual answers, without properly reading the questions. Since I accept that the Appellant didn't properly read the questions, she cannot be said to have knowingly made a false statement. Mistakes can occur unknowingly. I accept that is what happened in this case.

[15] Since I have found the Appellant didn't knowingly make a misrepresentation, there will be no penalty.

## **Conclusion**

[16] I find that the Appellant didn't knowingly make a false statement so there will be no penalty imposed.

[17] This means that the appeal is allowed.

Anita Nathan

Member, General Division – Employment Insurance Section