



Citation: *AJ v Canada Employment Insurance Commission*, 2024 SST 1752

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:

A. J.

Respondent:

Canada Employment Insurance Commission

Decision under appeal:

Canada Employment Insurance Commission
reconsideration decision (647130) dated February 22, 2024
(issued by Service Canada)

Tribunal member:

Susan Stapleton

Type of hearing:

Videoconference

Hearing date:

April 25, 2024

Hearing participant:

Appellant

Decision date:

April 26, 2024

File number:

GE-24-979

Decision

[1] The appeal is dismissed.

[2] The Canada Employment Insurance Commission (Commission) paid the Appellant too many weeks of Employment Insurance (EI) parental benefits. The Appellant must repay the overpayment.

Overview

[3] The Appellant's child was born on August 28, 2020.¹

[4] The Appellant applied for 35 weeks of standard parental benefits, to start on December 20, 2020.²

[5] The other parent received 34 weeks of standard parental benefits.³

[6] The Appellant contacted the Commission in January 2021, and asked to change the number of weeks of parental benefits he asked for, from 35 weeks to 20 weeks. He told the Commission that when he applied, both he and his spouse had requested 35 weeks of parental benefits.⁴ This requested change was not acted on by the Commission.⁵

[7] The Commission paid the Appellant 35 weeks of benefits.⁶

[8] The Commission later took another look at the Appellant's claim for parental benefits. It decided that the Appellant was only entitled to receive 6 weeks of parental benefits, because the other parent received 34 weeks of benefits, and shared parental benefits can only be paid for a total of 40 weeks. The Commission decided the

¹ See GD3-7.

² See GD3-8.

³ See GD4-1.

⁴ See GD3-18.

⁵ See GD4-1.

⁶ See GD4-1.

Appellant received 29 weeks of benefits he wasn't entitled to.⁷ It imposed a disentitlement from February 8, 2021, after 6 weeks of parental benefits had been paid.⁸

[9] The Commission says 15 weeks of the Appellant's overpayment was caused by a delay on its part, and so those 15 weeks can be written off. But it is asking the Appellant to repay the remainder of the overpayment, which is 14 weeks of benefits, in the amount of \$7,000.⁹

[10] The Appellant says he didn't realize he was only entitled to receive 6 weeks of parental benefits. He has already spent most of the benefits he received, mainly on his Canadian Board Dentistry exams. It would be very hard for him to repay the overpayment, because he is still a student.¹⁰

Issues

[11] Was the Appellant entitled to the 35 weeks of parental benefits he received?

[12] If not, does he have to repay the overpayment?

Analysis

[13] The law says that parents with children born on or after March 17, 2019, can share up to 40 weeks of standard parental benefits, but the most one parent can receive is 35 weeks.¹¹

[14] The other parent received 34 weeks of standard parental benefits.¹²

⁷ See GD3-23.

⁸ See GD4-1.

⁹ See GD4-3.

¹⁰ See GD2-5.

¹¹ See sections 12(3) and 12(4) of the *Employment Insurance Act* (Act). Parents can receive parental benefits at a reduced rate over a longer period if an election for extended parental benefits is made under section 23(1.1) of the Act. Since the Appellant's claim was for standard parental benefits, I haven't mentioned the maximum weeks available for extended parental benefits. The election can't be changed once benefits are paid, as they have been in this case. See section 23(1.2) of the Act.

¹² See GD4-1.

[15] The Appellant asked for 35 weeks of standard parental benefits.¹³ He received 35 weeks of parental benefits from December 20, 2020 to August 28, 2021.¹⁴

Was the Appellant entitled to 35 weeks of EI parental benefits?

[16] No. The Appellant was only entitled to 6 weeks of EI parental benefits.

[17] The Appellant and the other parent can share up to 40 weeks of standard parental benefits because their child was born after March 17, 2019.

[18] The other parent received 34 weeks of standard parental EI benefits. This means that only 6 weeks of benefits were available for the Appellant.

[19] So, this means the Appellant was entitled to 6 weeks of EI parental benefits.¹⁵

[20] Since the Commission paid the Appellant 35 weeks of EI parental benefits, he was overpaid by 29 weeks.

Does the Appellant have to repay the overpayment?

[21] The law says that when a claimant receives benefits that they weren't entitled to receive, they must repay those benefits.¹⁶

[22] The Commission submits that 15 weeks of the Appellant's overpayment was caused by a delay on the part of the Commission and can be written off. It says the debt would be reduced to \$7000, which the Appellant would be responsible to repay. The Commission correctly noted that the Tribunal doesn't have the authority to address the write-off of an overpayment. It says this issue will be addressed following receipt of my decision.¹⁷ I explained to the Appellant during the hearing that he can follow up with the Commission in this regard.

¹³ See GD3-8.

¹⁴ See GD3-20-21.

¹⁵ This is the maximum of 40 weeks less the 34 weeks paid to the other parent.

¹⁶ See section 43 of the Act.

¹⁷ See GD4-3.

[23] The Appellant wants me to find that he doesn't have to repay any of the benefits he received that he wasn't entitled to receive. He testified that he didn't realize that he and the other parent could only receive a combined 40 weeks of standard parental benefits. He's not sure that he read all of the "terms and conditions" on the application for benefits when he filled it out. He says it isn't fair that he has to repay the overpayment after all this time, when the Commission made a mistake every time it paid him benefits, over 35 weeks. If he had known he wasn't entitled to 35 weeks of benefits, he wouldn't have applied for 35 weeks. The Commission's system should alert claimants if they apply for benefits that they aren't entitled to. He is a student and it will be very difficult for him to repay the overpayment.

[24] I sympathize with the Appellant's situation. But no matter the reason why the Commission overpaid him benefits, he still has to pay back the overpaid benefits. As much as I would like to help the Appellant, I have no authority to allow him extra weeks of benefits or to forgive the debt for compassionate reasons. The law simply doesn't give me that power.

[25] The Appellant may want to discuss payment arrangements with the Canada Revenue Agency (CRA), which handles the collection of EI overpayments. The telephone number is 1-866-864-5823. More information about repayment can be found at Overpayments and Repayments - Canada.ca (<https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/overpayments/repayments.html#instructions>).

Conclusion

[26] The Appellant was entitled to 6 weeks of EI standard parental benefits. Since he was paid 35 weeks, he was overpaid EI parental benefits, and he must repay the overpayment.

[27] The appeal is dismissed.

Susan Stapleton

Member, General Division – Employment Insurance Section