



Citation: *JZ v Canada Employment Insurance Commission*, 2025 SST 797

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: J. Z.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (706821) dated February 22, 2025 (issued by Service Canada)

Tribunal member: Paul Dusome

Type of hearing: Videoconference

Hearing date: April 23, 2025

Hearing participant: Appellant

Decision date: April 29, 2025

File number: GE-25-878

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 claiming Employment Insurance (EI) benefits by not filing his weekly reports. In other words, the Appellant hasn't given an explanation that the law accepts. This means that the Appellant's claims can't be treated as though they were made earlier.

Overview

[3] In general, to receive EI benefits, you have to make a claim for each week that you didn't work and want to receive benefits.¹ You make claims by submitting reports to the Canada Employment Insurance Commission (Commission) every two weeks. Usually, you make your claims online. There are deadlines for making claims.²

[4] The Appellant made his claims after the deadline. He wants them to be treated as though they were made earlier, from his application for benefits on October 3, 2022, to March 23, 2023, when he was actively seeking employment during that period.

[5] For this to happen, the Appellant has to prove that he had good cause for the delay in filing his weekly reports.

[6] The Commission decided that the Appellant didn't have good cause and refused the Appellant's request. The Commission says that the Appellant doesn't have good cause because after applying for EI benefits, he took no actions and made no inquiries about the benefits until late March 2023.

[7] The Appellant disagrees and says that there were extenuating circumstances. He was unfamiliar with the EI process, and health challenges and personal hardships contributed to his inability to submit his reports on time.

¹ See section 49 of the *Employment Insurance Act* (EI Act).

² See section 26 of the *Employment Insurance Regulations*.

Matter I have to consider first.

The Appellant raised one issue that I cannot consider in deciding this appeal.

[8] The Appellant in his Notice of Appeal to the Tribunal asked for two things. The first one I can deal with. That was to receive EI benefits for the period of October 3, 2022, to March 23, 2023, during which he was eligible and actively seeking employment. That request raises the issue of whether the Appellant should be allowed to retroactively file his weekly reports for that period. If he is allowed to file those reports, he may be entitled to receive EI benefits for those weeks, depending on the information in the reports.

[9] I cannot deal with the second matter, antedating the Appellant's application for EI benefits from October 3, 2023, back to July 27, 2022, for the following reasons. The Tribunal's jurisdiction (or authority to decide an appeal) is limited to the issue that has been initially decided by the Commission, and then decided again by the Commission in a reconsideration decision.³ In this appeal, the Commission's only initial and reconsideration decisions are on the issue of antedating missed reports to the period October 3, 2022, to March 23, 2023. There is no decision letter or reconsideration decision letter in the file on the issue of antedating the application for EI benefits from October 3, 2022, back to July 27, 2022. So, I cannot rule on that issue in this decision.

Issue

[10] Did the Appellant have good cause for the delay in claiming EI benefits?

Analysis

[11] The Appellant wants his weekly claims for EI benefits to be treated as though they were made earlier, from October 3, 2022, to March 23, 2023. This is called antedating (or backdating) the claims.

³ See sections 112 and 113 of the EI Act.

[12] To get a claim antedated, the Appellant has to prove that he had good cause for the delay during the entire period of the delay.⁴ 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.

[13] And, 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.

[14] The Appellant also has to show that he took reasonably prompt steps to understand his entitlement to benefits and obligations under the law.⁶ This means that 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.⁷

[15] The Appellant has to show that he acted this way for the entire period of the delay.⁸ That period is from the day he wants his claims antedated to until the day he actually tried to make the claims. So, for the Appellant, the period of the delay is from October 3, 2022, to March 28, 2023.

[16] The Appellant says that he had good cause for the delay because there were extenuating circumstances. He was unfamiliar with the EI process. He had health challenges and personal hardships that contributed to his inability to submit his reports on time.

[17] The Commission says that the Appellant hasn't shown good cause for the delay because after applying for EI benefits, he took no actions and made no inquiries about

⁴ See *Paquette v Canada (Attorney General)*, 2006 FCA 309; and section 10(5) of the EI Act.

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

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

⁷ See *Canada (Attorney General) v Somara*, 2010 FCA 336; and *Canada (Attorney General) v Kale*, 2011 FCA 266.

⁸ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

the benefits from when he applied for benefits until March 28, 2023. In addition, the Appellant had not shown that there were extenuating circumstances that prevented him from taking those actions of making those inquiries.

Background

[18] The Appellant lost his job on July 26, 2022. The employer paid him a lump sum of \$16,760.00 for wages, vacation pay, bonus, severance pay and pay in lieu of notice. Most of the lump sum was for severance pay and pay in lieu of notice. He did not receive any information on EI when he was dismissed. He had never applied for EI benefits before.

[19] The Appellant thought that the severance payments made him ineligible for EI benefits, because he had money to live on. So, he did not apply for EI benefits until October 3, 2022.

[20] The Appellant did not recall reading the information on the application form about the Commission sending him an access code, or about filing reports. But he was waiting for an email from the Commission about his application.

[21] The Commission did send the Appellant an access code by regular mail. The Appellant said that the letter was buried under other mail he received. He found the letter around March 23, 2023. On March 28, 2023, he tried to file his weekly reports for the weeks of October 2, 2022, to October 15, 2022, with the access code. The Commission's system would not accept his attempts because he was past the four-week deadline for filing those weekly reports.

[22] The Appellant contacted the Commission on March 28, 2023, about his failed attempt to file his reports that day. The Commission renewed his claim effective March 19, 2023, but deferred for further investigation his request to antedate his reports back to October 3, 2022. The Commission made its decision on September 26, 2023, to deny the antedate back to October 3, 2022.

[23] The Appellant obtained a volunteer position outside Canada from April 18, 2023, to November 22, 2024. The Commission paid him EI benefits from March 19 to April 18, 2023. The Appellant did not receive the Commission's September 26, 2023, decision letter until he returned to Canada in November 2024. The Commission received his request to reconsider that decision on December 5, 2024.

Appellant's explanation for the delay

[24] The Appellant's explanation for the delay rests first on unfamiliarity with the EI program and its requirements, and second on extenuating circumstances.

[25] The Appellant had never applied for EI benefits in the past. He did not receive any information on the EI program when the employer let him go on July 26, 2022. He thought that because he had received the severance pay (including the pay in lieu of notice) he was not entitled to receive EI benefits. That was why he did not apply for benefits until October 3, 2022.

[26] In the application for benefits, the Appellant stated that no one had assisted him in completing the application. He did not read the information on the application form about his rights and responsibilities. After filing his application for benefits, he did not contact the Commission again until March 28, 2023, after he found the Commission's letter with his access code but could not file his reports.

[27] The Appellant also referred to a number of personal health issues that impaired his ability to deal with the EI process, and to act in a timely way. He filed some medical documents with his Notice of Appeal to support this.

Ruling

[28] I find that the Appellant hasn't proven that he had good cause for the delay in applying for benefits because he did not act as a reasonable person would have in his circumstances, and there are no exceptional circumstances that warrant relaxing that standard.

– **The reasonable person standard**

[29] I find that the Appellant has not met the reasonable person standard needed to succeed in this appeal.

[30] The test for assessing whether the Appellant acted as a reasonable person in his circumstances would have acted involves the following factors. First, he has to show that he acted reasonably and carefully just as anyone else would have if they were in a similar situation. Second, he has to show that he tried to learn about his rights and responsibilities as soon as possible and as best he could. Third, he has to show that he acted this way for the entire period of the delay, October 3, 2022, to March 28, 2023.

[31] The Appellant has failed to meet the criteria for acting as a reasonable person would have in his circumstances. He acted on his assumption that he was not eligible for EI benefits because he had received severance pay. He took no steps to verify if that was true. He did not read the statement in the application form that benefits could be delayed for receiving severance pay, and if so, you will be notified in writing. He did not contact the Commission or make any inquiries of others about his assumption.

[32] The Appellant did not read the information in the application form when he applied for benefits. The information included the following statements. First, “To prove your eligibility and receive any payment you may be entitled to, you are required to complete bi-weekly reports. Failure to do so may result in a loss of entitlement and payment.” Second, “After you apply for EI benefits, you must start completing bi-weekly reports using the Internet or Telephone Reporting Service as soon as you receive your Access Code in the mail. If you are eligible for benefits, no payments can be issued to you until you have submitted bi-weekly reports.” That statement was followed by web links to the Reporting Services, the Access Code and the My Service Canada Account (MCSA). The application form stated that the MCSA link provided information on the claim for benefits.

[33] The Appellant said that he was waiting to receive confirmation from the Commission about his benefits. When he did not receive confirmation, he thought that he did not meet the requirements to receive benefits. A reasonable person would have

contacted the Commission to ask about his benefits. When he received a letter from the Commission, it got buried under other mail and he did not open it until March 23, 2023. Because the letter contained his Access Code to his EI account, it would have been mailed to him when his application was processed in late 2022. A reasonable person would have opened that letter immediately upon receiving it. A reasonable person would also have used the Access Code at that time to get information about his claim for benefits.

[34] The Appellant did not go to the Commission's website or call the Commission to get information on his rights and obligations, or on what he had to do to receive EI benefits from October 3, 2022, when he completed his application, until March 28, 2023, when he contacted the Commission about filing his late reports. That is the period during which he must show that he acted as a reasonable person.

[35] Prior to the contact with the Commission on March 28, 2023, the only time the Appellant sought information about EI from someone else was the occasion of talking with his aunt at one or two family gatherings. His aunt had worked with the Commission, so had information about the EI program. The Appellant's evidence about these conversations referred to two different times: before he made his application; and later when she told him to make his request for reconsideration in response to the Commission's decision on September 26, 2023. Neither of those events assist the Appellant because they occurred outside the period of the delay from October 3, 2022, to March 28, 2023, so do not show him acting as a reasonable person during that period. In fact, his conversation with his aunt before he applied for benefits supports an inference that she pointed out to him what he needed to do after he applied. But the Appellant filed his application, then did not contact the Commission until March 28, 2023. So, he failed to act as a reasonable person in response to his conversation with his aunt.

– **Exceptional circumstances**

[36] I find that the Appellant has not proven exceptional circumstances during the relevant period of October 3, 2022, to March 28, 2023, to permit relaxing his duty to learn about his rights and obligations.

[37] The reasonable person test for assessing the duty to learn about rights and obligations may be relaxed if there are exceptional circumstances.⁹ The standard for meeting exceptional circumstances is quite high. For example, being busy with school, working and changing jobs, financial struggles, and moving are not exceptional circumstances even when considered cumulatively.¹⁰ I cannot decide an appeal on the basis of sympathetic circumstances. I must decide the appeal on the basis of the proven facts and the EI legal rules that apply.¹¹

[38] In this appeal, the Appellant had some impairments from two diagnosed medical conditions and their psychological impact. Those impairments lasted during the whole period of the delay, October 3, 2022, to March 28, 2023. But the impairments did not prevent the Appellant from applying for jobs, being hired, and taking a volunteer position in Africa. In light of those activities, it is a reasonable inference that these impairments did not prevent him from contacting the Commission. The Appellant therefore cannot show that his circumstances were exceptional to the point of preventing him from inquiring about his EI rights and obligations during the entire period of the delay.

[39] I will review first the medical evidence and the Appellant's testimony of the impact of the medical conditions on him. Then I will review the evidence and testimony about the Appellant's activities in looking for work in the period under review.

[40] **The medical issue.** The Appellant provided some documents relating to his medical issues with his Notice of Appeal. There are two identified diagnoses: atopic dermatitis (commonly known as eczema) and rheumatoid arthritis. There are two

⁹ See *Canada (Attorney General) v Somara*, 2010 FCA 336 at paragraph 11.

¹⁰ See *NO v Canada Employment Insurance Commission*, 2022 SST 987; leave to appeal denied, 2022 SST 986.

¹¹ See *Canada (Attorney General) v Shaw*, 2002 FCA 325; *Canada (Attorney General) v Knee*, 2011 FCA 301; and *Nadji v Canada (Attorney General)*, 2016 FC 885.

receipts for psychotherapy, but no information on the conditions, findings, impacts or treatments.

[41] *Atopic dermatitis*. This condition is also called eczema. That is how the Appellant referred to it in his testimony. There are four reports from a dermatologist about this condition. They date from January 9, 2023, to December 16, 2024. They state the onset of the condition was in 2016. They state that this is a long-standing chronic illness. It cannot be cured but it can be well controlled and is to be treated with systemic therapy. On March 27, 2023, the doctor stated that ongoing treatment with drugs in the past 30 days was to continue for another 30 days, then be placed on hold until the Appellant returns to Canada after a six-month absence.

[42] *Rheumatoid arthritis*. There is one undated report from a rheumatologist, following a referral to her on in January 2025. Her report refers to a history since 2022 of bilateral shoulder pain. Since the Appellant was in Africa from April 2023, his pain increased in his left knee and in his hands and wrists. These symptoms improved with medication. In September 2024, he was diagnosed in Africa with rheumatoid arthritis. Treatment consisted of pain medications, and in the future, disease modifying drugs.

[43] *Psychotherapy*. The only documentary evidence of the psychotherapy is two receipts, on November 11, 2021, and October 17, 2022. The only information is the date, the item “individual psychotherapy” and the cost and payment.

[44] The Appellant testified that the eczema and the arthritis created a great deal of pain leading to anxiety, insomnia, interference with focusing and interference with executive tasks. The pain could be debilitating, making ordinary tasks difficult to perform. He would focus on his health only and put other things aside. He saw the psychotherapist for the anxiety and insomnia. When he spoke with the Commission on February 2, 2025, about the reasons for his late request, the Commission recorded that he “had no exceptional circumstances that prevented him from calling or visiting our website to follow up on his application.” In his testimony, the Appellant stated he disagreed with this statement. He was asked a leading question, and he tends to be

agreeable to leading questions. In fact, the medical conditions affect him greatly. He has barriers. Ordinary tasks can be difficult.

[45] The first mention of the Appellant's personal and health challenges appears in his Notice of Appeal. In all his communications with the Commission prior to that, he had not mentioned the medical issues or personal challenges. In the Notice of Appeal, he stated, "Since November 2021, I had been attending psychotherapy due to severe eczema, which caused anxiety and insomnia. These sessions continued until late October 2022. While I remained capable of working, my condition impacted my ability to manage daily affairs effectively." He later mentioned the rheumatoid arthritis diagnosis in September 2024, with symptoms dating back to August 2022. "This illness caused severe fatigue and joint pain, further affecting my ability to manage daily tasks, including timely follow-ups with Service Canada."

[46] The timing of this mention of personal and health challenges raises a concern. The Tribunal in making findings of fact may be entitled to discount an appellant's later statements as compared to his earlier statements, particularly where the later statements raise new matters not mentioned in the earlier statements.¹²

[47] In this appeal, I do accept that the Appellant had the conditions of eczema and rheumatoid arthritis, as set out in the medical documents. I do accept that those conditions did limit him, but that the limitations could be reduced somewhat by treatments that the Appellant was receiving or would be receiving. A review of what the Appellant actually did during the period under review (October 3, 2022, to March 28, 2023) will show that the Appellant was not so limited that the medical conditions and their impact on him prevented him from inquiring about his EI rights and obligations during the entire period of the delay.

[48] **The Appellant's activities from October 3, 2022, to March 28, 2023.** In his Notice of Appeal, the Appellant stated that he remained capable of working, but the health condition impacted his ability to manage daily affairs effectively. He actively

¹² *Candle v Human Resources and Skills Development Canada*, 2007 FCA 364.

sought employment, took an online project management course, participated in multiple job interviews, was offered two jobs, but both offers were rescinded. The job offers and their being rescinded are documented in the Notice of Appeal. One was in November 2022, the other in January 2023. This caused additional stress and preoccupation with finding a job. The Appellant referred to a short-term freelance job in February 2023. However, the documents in support of this job (the written contract and a T4A income tax form for fees for services) show that the job was in February 2022. That was before the period under review in this appeal. The Appellant succeeded in getting a volunteer position in Africa on February 8, 2023, with a tentative departure date of March 13, 2023 (the departure was actually on April 18, 2023). He had successfully completed all the steps in the recruitment process. These included activating a Google account to access the steps on the website; completing those steps by February 16, 2023; activating an additional online account; keeping track of the number of hours taken to complete the steps; applying for the appropriate entry visa to enter the country where the assignment will be; once the first three steps are done, receive an email with additional requirements; confirm personal information for a criminal records check; and use the attached 'Checklist' to keep track of the requirements the Appellant is submitting.

[49] That review shows that the Appellant was capable of contacting prospective employers in November 2022 and January 2023 and getting an offer of a job from each (subsequently rescinded by both employers). The detail of the requirements that the Appellant met in a short time frame in February 2023 for the Africa volunteer position shows that he was capable of handling multiple tasks despite his medical limitations. Based on this review, I do not accept the Appellant's statement that the rheumatoid arthritis or the eczema or their impacts blocked or impaired his ability to manage timely follow-ups with the Commission.

[50] So, the Appellant has failed to prove that there were exceptional circumstances that excused him from meeting the reasonable person standard for good cause. And because the Appellant has not met the reasonable person standard for good cause, the Appellant is not entitled to have his claims backdated to the period October 3, 2022, to March 28, 2023.

Conclusion

[51] The Appellant hasn't proven that he had good cause for the delay in making his claims for benefits throughout the entire period of the delay. This means that his claims can't be treated as though they were made earlier.

[52] The appeal is dismissed.

Paul Dusome

Member, General Division – Employment Insurance Section