



[TRANSLATION]

Citation: *AB v Canada Employment Insurance Commission*, 2025 SST 164

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: A. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (703875) dated December 19, 2024 (issued by Service Canada)

Tribunal member: Charline Bourque

Type of hearing: In person

Hearing date: February 4, 2025

Hearing participant: Appellant

Decision date: February 13, 2025

File number: GE-25-42

Decision

[1] The appeal is dismissed.

[2] The Claimant hasn't shown that she had good cause for the delay in applying for benefits.¹ In other words, the Claimant hasn't given an explanation that the law accepts. This means that the Claimant's application can't be treated as though it was made earlier.

Overview

[3] The Claimant applied for Employment Insurance (EI) benefits on September 30, 2024. She is now asking that the application be treated as though it was made earlier, on January 10, 2024. The Canada Employment Insurance Commission (Commission) has already refused this request.

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

[5] The Commission says the Claimant didn't have good cause because she didn't show that she had made any inquiries with EI services. Someone who shows indifference or carelessness, or who makes no effort to inform themselves of their rights and obligations, doesn't have good cause because they can't be considered to have acted as a reasonable person would have.

[6] The Claimant disagrees, saying that she was surprised she lost her job and that the situation created a lot of stress for her. So, she was actively looking for a job. She didn't immediately apply for EI, as she didn't know that the Commission would not consider all her hours of work. She hoped to find a job quickly and applied for benefits

¹ Section 10(4) of the *Employment Insurance Act* (Act) uses the term "initial claim" when talking about a claimant's first application for benefits, which is used to determine whether the claimant qualifies to establish a benefit period.

when her savings ran out. She asked that it be considered that she was unaware of the qualifying period and that she was experiencing a lot of stress.

[7] Because the claim for benefits began on September 29, 2024, the Commission determined that the Claimant hadn't accumulated enough insurable hours during her qualifying period to establish a claim on that date. The Claimant had accumulated 550 of the 700 hours of insurable employment that she required to establish a claim.

Issues

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

[9] Has the Claimant worked enough hours to qualify for EI benefits?

Analysis

Issue 1: Can the Claimant's application be treated as though it was made on January 10, 2024?

[10] 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).

[11] The main arguments in this case are about whether the Claimant had good cause. So, I will start with that.

[12] To show good cause, the Claimant has to prove that she acted as a reasonable and prudent person would have acted in similar circumstances.³ In other words, she has

² See section 10(4) of the Act.

³ See *Canada (Attorney General) v Burke*, 2012 FCA 139.

to show she acted reasonably and carefully just as anyone else would have if they were in a similar situation.

[13] The Claimant has to show that she acted this way for the entire period of the delay.⁴ That period is from the day she wanted her initial claim antedated to until the day she actually applied. So, for the Claimant, the period of the delay is from January 10, 2024, to September 28, 2024.

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

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

[16] The Claimant said that she had good cause for the delay because she was experiencing a lot of stress due to the unexpected loss of her job. She explained that she was looking for a new job and was unaware that there was a qualifying period that would mean that not all her hours of work would be taken into account. She applied for benefits when she had exhausted all her savings.

[17] The Commission says the Claimant didn't show that she had good cause for the delay because she hadn't made any inquiries with EI services. Someone who shows indifference or carelessness, or who makes no effort to inform themselves of their rights and obligations, doesn't have good cause because they can't be considered to have

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.

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

acted as a reasonable person would have. So, the Claimant didn't demonstrate that she had good cause and had acted as a reasonable person.

[18] The Commission is of the view that the Claimant's decision to delay applying because she was relying financially on her savings is not reasonable. She can't justify her delay by saying she had money from her savings at that time. This is proof that she didn't need EI during her period of delay. She hasn't shown that she was in urgent need of money during this period.

[19] I find that the Claimant didn't prove that she had good cause for her delay in applying for benefits because she was late in obtaining the necessary information on EI requirements. She said that two friends had told her to check with EI, but she didn't take any steps to do so.⁷

[20] I understand the stress and difficulties involved in looking for a job. Nevertheless, case law is clear that ignorance of the Act and a Claimant's good faith are not good cause for delay.⁸ My role is to apply the Act. I can't change it, even if it is to please the Claimant who feels wronged. The Act establishes specific criteria that a claimant has to meet to be entitled to benefits, and the time to apply is part of that.⁹

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

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

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

⁹ See *Granger v Commission (C.E.I.C)* FCA #A-684-85; and *Wegener v Canada (Attorney General)*, 2011 FC 137.

Issue 2: Has the Claimant worked enough hours to qualify for EI benefits?

– How to qualify for benefits

[22] Not everyone who stops working will receive EI benefits. You have to show that you qualify.¹⁰ The Claimant has to prove this on a balance of probabilities. This means she has to show that it is more likely than not that she is entitled to benefits.

[23] To qualify, a person has to have worked enough hours over an established period. This period is called the “qualifying period.”¹¹

[24] The number of hours depends on the unemployment rate in the person’s region.¹²

– The Claimant’s region and regional unemployment rate

[25] The Commission established that the Claimant’s region was the Québec region and that the regional unemployment rate at the time was 4%.

[26] This means the Claimant needed to have worked at least 700 hours during her qualifying period to qualify for EI benefits.¹³

– The Claimant’s qualifying period

[27] As I said before, the hours taken into account are those worked during the Claimant’s qualifying period. In general, the qualifying period is the 52-week period before the start of a person’s benefit period.¹⁴

¹⁰ See section 48 of the Act.

¹¹ See section 7 of the Act.

¹² See section 7(2)(b) of the Act and section 17 of the *Employment Insurance Regulations*.

¹³ Section 7 of the Act shows a table that gives the minimum number of hours that must be accumulated according to the regional unemployment rate.

¹⁴ See section 8 of the Act.

[28] The **benefit period** is different from the **qualifying period**. They are not the same period of time. The benefit period is the period of time during which a person may receive EI benefits.

[29] The Commission decided the Claimant's qualifying period was the usual 52-week period before the date the Claimant applied for benefits. It determined that this period was from October 1, 2023, to September 28, 2024.

[30] The Claimant didn't present any other circumstances that might have allowed the qualifying period to be extended.

– **Number of hours the Claimant worked**

[31] The Commission determined that the Claimant had worked 550 hours during her qualifying period.

[32] The Claimant doesn't dispute this, and there is no evidence that makes me question it. So, I accept it as fact.

[33] The Claimant asked for an antedate to January 10, 2024, but the Commission refused. I have determined that the Claimant didn't act as a reasonable and prudent person would have acted in the circumstances and that she didn't prove that she had good cause for the delay in applying for benefits throughout the entire period of the delay. So, the decision to refuse the antedate was upheld.

[34] The Claimant also confirmed that she hadn't held another job.

– **So, has the Claimant worked enough hours to qualify for benefits?**

[35] I find that the Claimant hasn't shown that she worked enough hours to qualify for EI benefits. She needed 700 hours, but she accumulated 550 hours.

[36] EI is an insurance plan, and like other insurance plans, conditions must be met to receive benefits.

[37] In this case, the Claimant doesn't meet the conditions and doesn't qualify for benefits. While I am sympathetic to the Claimant's situation, I can't change the Act.¹⁵

Conclusion

[38] The Claimant hasn't proven that she had good cause for the delay in applying for benefits throughout the entire period of the delay.

[39] I find that the Claimant hasn't worked enough hours to qualify for benefits.

[40] The appeal is dismissed.

Charline Bourque

Member, General Division – Employment Insurance Section

¹⁵ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.