



[TRANSLATION]

Citation: *ML v Canada Employment Insurance Commission*, 2025 SST 737

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

Decision

Appellant: M. L.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (685322) dated
September 12, 2024 (issued by Service Canada)

Tribunal member: Jacques Bouchard
Type of hearing: Videoconference
Hearing date: January 22, 2025
Hearing participant: Appellant
Decision date: February 5, 2025
File number: GE-25-19

Decision

[1] The appeal is allowed.

Overview

[2] The Appellant is appealing the decision that the Commission gave after she asked for a reconsideration, under section 112 of the *Employment Insurance Act* (Act). It is about the following issues: (1) the percentage of her wages being garnished to pay back a debt, and (2) asking for a second reconsideration under section 111 of the Act.

[3] In this case in dispute, under section 111, a decision can be amended if one of the following conditions is met: new facts are on file, a decision was given without knowledge of, or the decision was based on a mistake as to, some material fact.

[4] The Commission finds that the Appellant hasn't presented any new facts to amend or reconsider the decision issued on May 10, 2023, under section 112 of the Act. That decision upheld a decision issued on April 21, 2021, where the Commission identified income that hadn't been reported for the periods from January 29, 2017, to January 7, 2018, and from January 21, 2028, to June 3, 2018 (GD3-22).

[5] These omissions or false statements resulted in \$10,334 being overpaid in 2017 and \$1,096 in 2018 for the benefit claim effective January 22, 2017. Also, \$6,153 was overpaid for the benefit claim starting January 21, 2018. The notice of debt, as noted earlier, was sent to the Appellant on April 21, 2021 (GD3-27-29).

[6] The Commission added a \$782 penalty to the claim, effective January 21, 2018. On April 13, 2023, the Appellant asked for the decisions issued on April 21, 2021, to be reconsidered. The Commission says that she got five letters telling her she was overpaid between 2018 and 2021. It gave a negative decision on the delay in asking for a reconsideration within the 30 days.

[7] The Appellant doesn't understand why the Commission is refusing her the right to have her claim reconsidered. She argues that she was entitled to benefits during the periods in dispute, but that she might have made mistakes. Still, she says that she

never got any correspondence at her home. She wants to see how the overpayment was calculated so that she can check it.

Issue

[8] The file is before the General Division. It has jurisdiction to give a decision under section 111 of the Act, after the Appellant asked for a reconsideration that was refused on September 12, 2024.

[9] The General Division has to decide whether new material facts were considered in the Commission's decision to refuse the reconsideration request that the Appellant made.

[10] The Appellant said at the hearing that it was only in December 2014 that she learned the details about the data the Commission used. She said that she had given bank statements to the Commission in 2023, but she never received any response. She is arguing that source deductions are causing her harm, and that they don't consider her physical and financial abilities. At the hearing, she said that the Commission never gave her a chance to be heard.

Analysis

[11] The Commission repeatedly refused to reconsider the Appellant's file, arguing that the 30-day deadline to appeal the decision had passed. It argues that she hasn't moved since 2018, and that she was sent five letters about being overpaid.

[12] The Appellant says that she had to be hospitalized many times during the period in dispute. She said at the hearing that this probably explained a large part of the communication problems.

[13] She says that she was diagnosed with total disability in 2021. She said at the hearing that she has fibromyalgia and chronic fatigue. She had bariatric surgery with complications, leaving her malnourished since 2017. She was also in a car accident in March 2017 and had a severe concussion. Her ability to work has been seriously limited

since 2017, and she was also caring for a young daughter as a single mother. In 2019, she was diagnosed with thyroid cancer.

[14] The Appellant says that she has to take many medications to treat her illnesses. She doesn't understand the amounts shown on the Employment Insurance (EI) statements.

[15] Most of the Appellant's health problems started or occurred during the period in dispute. This doesn't explain everything, but it certainly explains a large part of the delays.

[16] The Appellant said at the hearing that even though her ability to work is seriously limited, she currently works for an organization that helps crime victims (CAVAC) as a special-education teacher. She still doesn't understand how the overpayment and penalties she is facing for having made false statements were calculated.

[17] The General Division finds that the Commission never considered the Appellant's health as having caused the delays or problems in communicating with her. In my view, these are new facts that aren't on file, and that should have been considered when the decisions were issued in 2021 and 2023.

[18] As for the percentage of the Appellant's wages being garnished, the General Division isn't taking any action because this issue wasn't reconsidered.

[19] I am of the view that the file should be reconsidered under section 111 of the Act, since material facts weren't considered when the overpayment was established and penalties were later imposed. I believe the Appellant when she said at the hearing that her health and the extensive health care she received were major obstacles during the period in dispute. They likely caused the problems in communicating with the Commission. I find that she has the right to be heard and to get all the information needed, to make sure that she isn't penalized unduly and that her file is handled fairly.

[20] Considering all of the facts mentioned earlier, the appeal is allowed in part. The General Division gives the right to a reconsideration under section 111 of the Act.

Conclusion

[21] The appeal is allowed.

Jacques Bouchard
Member, General Division – Employment Insurance Section