



Citation: *AZ v Canada Employment Insurance Commission*, 2025 SST 1454

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

**Decision**

**Appellant:** A. Z.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (747080) dated September 17, 2025 (issued by Service Canada)

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**Tribunal member:** Kristen Thompson

**Type of hearing:** In person

**Hearing date:** December 17, 2025

**Hearing participant:** Appellant

**Decision date:** December 18, 2025

**File number:** GE-25-3201

## Decision

[1] The appeal is dismissed. The General Division disagrees with the Appellant.

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

## Overview

[3] The Appellant applied for EI benefits on May 23, 2025.<sup>1</sup> She is now asking that the application be treated as though it was made earlier, on January 31, 2024.<sup>2</sup>

[4] The Canada Employment Insurance Commission (Commission) has already refused this request. It says that the Appellant didn't have good cause throughout the entire period of the delay because she didn't take reasonably prompt steps to understand her entitlement to benefits and obligations under the law.

[5] The Commission also decided that the Appellant hadn't worked enough hours to qualify for EI benefits as of May 18, 2025.<sup>3</sup>

[6] The Appellant disagrees. She says that her application should be treated as though it was made earlier because she had surgery, needed time to recover, and was then busy with personal matters. Had she known there was a deadline to apply, she would have applied right away.

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<sup>1</sup> GD3-12.

<sup>2</sup> GD3-27 to 28.

<sup>3</sup> Section 7 of the *Employment Insurance Act* (EI Act) says that the hours worked have to be "hours of insurable employment." In this decision, when I use "hours," I am referring to "hours of insurable employment."

## **Matter I should consider first**

### **What are the issues under appeal?**

[7] The Commission decided that the Appellant hadn't worked enough hours to qualify for EI benefits. Specifically, she didn't have enough hours to establish a claim as of May 18, 2025.<sup>4</sup> She needs 630 hours but has only 261.<sup>5</sup>

[8] The Appellant applied for EI benefits on May 23, 2025. She listed that January 31, 2024, was the last day she worked.<sup>6</sup>

[9] At the hearing, the Appellant clarified that she isn't seeking benefits as of May 18, 2025. She says that she has been working since October 16, 2024. And, other than a one-week period between jobs, she continues to work.

[10] Instead, the Appellant is seeking EI benefits from the period starting January 31, 2024, until she started working again on October 16, 2024.

[11] This means that the issue of whether the Appellant has enough hours to qualify for benefits to establish a claim on May 18, 2025, isn't under appeal. As the Appellant is seeking benefits starting January 31, 2024, until she went back to work on October 16, 2024, the only issue under appeal is whether her application can be treated as though it was made on January 31, 2024.

### **Issue**

[12] Can the Appellant's application for benefits be treated as though it was made on January 31, 2024? This is called antedating (or, backdating) the application.

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<sup>4</sup> See GD3-30 to 31 and GD4.

<sup>5</sup> The Commission decided that the Appellant's qualifying period was from January 14, 2024, to May 17, 2025, and that the unemployment rate (for the period of May 11, 2025, to June 7, 2025) was 7.1% in her EI Economic Region of South Central Ontario. See GD4 and GD3-20 to 21.

<sup>6</sup> See GD3-6.

## Analysis

[13] To get your application for benefits antedated, you have to prove these two things:<sup>7</sup>

- 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).

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

[15] To show good cause, the Appellant has to prove that she acted as a reasonable and prudent person would have acted in similar circumstances.<sup>8</sup> In other words, she has to show that she acted reasonably and carefully just as anyone else would have if they were in a similar situation.

[16] The Appellant has to show that she acted this way for the entire period of the delay.<sup>9</sup> That period is from the day she wants her application antedated to until the day she actually applied. So, for the Appellant, the period of the delay is from January 31, 2024, to May 23, 2025.

[17] The Appellant also has to show that she took reasonably prompt steps to understand her entitlement to benefits and obligations under the law.<sup>10</sup> This means that the Appellant has to show that she tried to learn about her rights and responsibilities as soon as possible and as best she could. If the Appellant didn't take these steps, then

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<sup>7</sup> See section 10(4) of the EI Act.

<sup>8</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

<sup>9</sup> See *Canada (Attorney General) v Burke*, 2012 FCA 139.

<sup>10</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

she must show that there were exceptional circumstances that explain why she didn't do so.<sup>11</sup>

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

[19] The Commission says that the Appellant hasn't shown good cause for the entire period of the delay because she didn't take reasonably prompt steps to understand her entitlement to benefits and obligations under the law. There were exceptional circumstances from February 16, 2024, to June 1, 2024, as she underwent surgery and recovery. Otherwise, she was too busy to apply, despite knowing about EI benefits.

[20] The Appellant says that she had good cause for the delay because:

- She was in hospital in December 2023. She couldn't apply for benefits from January 31, 2024, to February 16, 2024, because she was very sick and in pain.
- She had surgery on February 16, 2024, and it took her until approximately June 1, 2024, to recover.
- After her recovery period, she looked for a job but didn't find anything until October 16, 2024. She thought the best thing to do was to find a new job, then worry about applying for EI benefits.
- She was also busy with personal matters, including separating from her spouse, looking for a house and moving, and caring for her two children.
- Although her former employer told her to apply, she thought she could apply at a later date. She didn't know that there was a deadline to apply. Had she known, she would have applied right away.

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<sup>11</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

- She was waiting for her taxes to be reviewed. She didn't know whether she had to submit her taxes before applying for EI benefits.
- She didn't have a computer.
- She needs EI benefits during the period she wasn't working, as she had no job and no income.
- She didn't take steps to find out about her rights and obligations under the EI program.
- When she went back to work, as of October 16, 2024, she worked the afternoon shift. So, she wasn't available to go to the Service Canada Centre during operating hours.
- She was prompted to apply May 23, 2025, when she needed money, and she used her parent's computer to apply.

[21] The Federal Court of Appeal (Court) says that ignorance of the law, even if coupled with good faith, isn't sufficient to establish good cause.<sup>12</sup> The Court also says that an appellant's intention of seeking alternative employment, or relying on one's own resources, isn't good cause for delay.<sup>13</sup> I'm bound by these decisions and I'm following them.

[22] The Tribunal's Appeal Division says that I can consider whether an appellant had good cause for the period of delay immediately preceding an application for EI benefits.<sup>14</sup>

[23] I find that the Appellant hasn't proven that she had good cause for the delay in applying for EI benefits because she didn't act like a reasonable and prudent person

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<sup>12</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336; and *Canada (Attorney General) v Kaler*, 2011 FCA 266.

<sup>13</sup> See *Howard v Canada (Attorney General)*, 2011 FCA 116; and *Shebib v Canada (Attorney General)*, 2003 FCA 88.

<sup>14</sup> See *JS v Canada Employment Insurance Commission*, 2024 SST 117.

would have done in the circumstances to find out their rights and obligations. That the Appellant prioritized finding a job, didn't know that she shouldn't delay her application, and didn't know that she didn't have to have her taxes done in order to apply, aren't good cause. The Appellant testified that she didn't take steps to find out about her rights and obligations under the EI program. Although she didn't have a computer, there were other ways she could have taken steps to find out about her rights and obligations under the EI program, including the phone or attending the Service Canada Centre in person.

[24] I find that there are exceptional circumstances that would excuse her from not taking reasonably prompt steps from January 31, 2024, to June 1, 2024, as she was sick, had surgery, and was recovering from surgery. However, as this period of delay isn't immediately before her application for EI benefits, its consideration doesn't change my decision. As well, I don't find being busy with personal matters, including separating from her spouse, looking for a house and moving, and caring for her two children, to be exceptional circumstances.

[25] I don't need to consider whether the Appellant qualified for benefits on the earlier day. If the Appellant doesn't have good cause, her application can't be treated as though it was made earlier.

## **Conclusion**

[26] The Appellant hasn't proven that she had good cause for the delay in making her claim for benefits throughout the entire period of the delay. This means that her claim can't be treated as though it were made earlier.

[27] The appeal is dismissed.

Kristen Thompson  
Member, General Division – Employment Insurance Section