Citation: *SA v Canada Employment Insurance Commission*, 2025 SST 1401

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Interlocutory Decision

Appellant:	S. A.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (729763) dated June 6, 2025 (issued by Service Canada)

Tribunal member:	Ambrosia Varaschin
Type of hearing:	**IN WRITING**
Decision date:	October 14, 2025
File number:	GE-25-1945

Decision

[1] I am refusing the Appellant's request that this appeal be assigned to a different General Division member.

Overview

[2] The Appellant appealed a decision made by the Canada Employment Insurance Commission (Commission) to the General Division of the Tribunal. The appeal was assigned to me to decide.

[3] The Appellant has raised an allegation of bias and misconduct against me. He argues that I "agreed with the Commission at every turn," harassed and bullied him, emotionally disturbed him, was amateurish, and wasted his hearing. He also claims that the Tribunal staff are very negative, irresponsible, disrespectful and have "no ethical attitude for the clients."

[4] The Appellant seeks to have me removed from this appeal.

[5] I sent the parties a letter explaining the legal test to have a Tribunal member removed for bias. I gave the parties until August 10, 2025, to provide their evidence and written arguments they wanted me to consider when deciding the bias matter.

[6] The Commission did not respond.

[7] The Appellant provided a brief response, referencing only that he was muted during the case conference, and said I should refer to his previous statements to the Tribunal.

Issue

[8] Should I remove myself from the appeal file because of bias?

Background

[9] On June 23, 2025, the Appellant filed an appeal with the Tribunal regarding a decision from the Commission that he did not have sufficient self-employment earnings

to qualify for the benefits he had received. He did not include any evidence with his Notice of Appeal, and from the Reconsideration File, it appeared that the issue was a failure to file a completed Schedule 13 with his income tax return, and a failure to provide proof of his self employment earnings.

[10] So, on July 3, 2025, I sent the Appellant a letter asking if he could provide evidence for his appeal, specifically his complete 2022 income tax return and his Schedule 13 for that year.[1] The Appellant provided his Notice of Reassessment for his 2022 income tax return, and a blank schedule 13.[2]

[11] On July 4, 2025, the Appellant was informed that his Notice of Reassessment is not his complete tax return, and I once again requested a copy of his complete tax return (what he sent to the Canada Revenue Agency, or "CRA"). I also requested evidence of his self employment earnings if he did not have a completed Schedule 13.[3] The Appellant provided a mostly unreadable copy of his Statement of Business Activities from his 2022 tax return, an Uber tax summary for a person named T. W. (both of which were already included in the Reconsideration file), and his GST Notice of Assessment.[4]

[12] An in-person hearing was scheduled for July 25, 2025. On July 21, 2025, the Tribunal informed the Appellant that the hearing must be rescheduled because there was a flood at the Service Canada Centre and the location was inaccessible. He insisted that the hearing be held in person, so he was informed that it would be rescheduled in due time.

[13] The Appellant then decided that he wanted a videoconference hearing because he did not want to wait any longer for his hearing, and he wanted it at the same time as his in-person hearing was scheduled. He stated that he did not believe that the facility was flooded and would call to verify it for himself.[5]

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[1] See GD05.
[2] See GD06 and GD07.
[3] See GD08.
[4] See GD09.
[5] See call log July 21, 2025, "RE: URGENT! GE-25-1945 Logistical Adj request from SC."

[14] The hearing could not take place by videoconference at the same time as the original hearing because of scheduling complications with other in-person hearings as a result of the flooded building. Since the Appellant had stressed he wanted the matter addressed urgently, a hearing was scheduled for the next day, July 22, 2025.

[15] At the hearing, I informed the Appellant that the primary issue with his case was a lack of evidence for his self-employment earnings because he has not filed a completed Schedule 13 with CRA, and the evidence he submitted for earnings were for other people. Instead of closing the hearing, I offered him a continuation so he could provide a completed copy of his Schedule 13 for the 2022 tax year as well as any other evidence he might have to prove his self-employment earnings.

[16] The Appellant made five phone calls and sent four emails to the Tribunal within two days of his hearing about the documents that he submitted to the Commission and the Tribunal that belonged to his friend and his girlfriend. These communications culminated with an allegation of incompetence and unethical behaviour from the Tribunal, so a case conference was called to address the matter.

[17] At the case conference, there were several technological issues with the Tribunal's Zoom software. I was dropped off the call on three separate occasions, including at the end of the case conference. So, parties were allowed to provide any additional questions or issues in writing.[6]

[18] During the case conference, the Appellant repeatedly interrupted and spoke over participants in an aggressive manner, as well as refused to follow directions. So, he was muted on three separate occasions to maintain order during the call.

[19] In the week following the case conference, the Appellant made three calls and sent six emails to the Tribunal regarding the case conference. These communications included serious allegations of harassment, bullying, and threatening behaviour from Tribunal staff and myself, as well as stating I was biased against the Appellant. So, the

[6] See GD22.

parties were invited to make arguments on the issue of bias. The Commission chose not to respond.

Analysis

What is Bias?

[20] There is a high threshold for proving that a tribunal member would not be impartial when deciding an appeal.[7] But, if someone can prove that there is a reasonable apprehension of bias, then a tribunal member should remove themselves from hearing an appeal.

[21] Decision-makers are held to the highest standards of impartiality. The protection of the interests of the parties to a case and the administration of justice requires decision-makers to be disqualified if they are biased, or if there is a reasonable apprehension that bias exists.[8]

[22] Judicial impartiality requires decision-makers to approach each case with an open mind, free from inappropriate or undue assumptions. The presumption that decision-makers act impartially is strong. This means that the person alleging bias must prove, to a very high standard, that a reasonable apprehension of bias exists.[9]

[23] The test for bias, set by the Supreme Court of Canada, is whether an informed person, viewing the matter realistically and practically—and having thought the matter through—decide that it is more likely than not that the decision maker, consciously or unconsciously, would not decide the matter fairly.[10]

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[7] See *Committee for Justice and Liberty v Canada (National Energy Board)*, 1976 2 (SCC), 1978 1 SCR 369.
[8] See *R. v Valente*, [1985] 2 SCR 673, 1985 SCC 25; *R. v S.(R.D.)*, [1997] 3 SCR 484, 1997 SCC 324; *Yukon Francophone School Board, Education Area No. 23 v Yukon (Attorney General)*, 2015 SCC 25; and *R. v Anderson*, 2017 BCCA 154.
[9] See *Yukon Francophone School Board, Education Area No. 23 v Yukon (Attorney General)*, 2015 SCC 25 at paras 22-25.
[10] See *Committee for Justice and Liberty v National Energy Board*, 1976 2 (SCC), 1978 1 SCR 369 at para 394.

[24] The application of the test for bias is "inherently contextual and fact-specific,"[11] and should be considered with the following principles in mind:[12]

a) a decision-maker's impartiality is presumed (in other words, automatically assumed and respected);
b) a party arguing for the removal of a decision-maker has the burden to prove that circumstances justify it; and
c) the apprehension of bias must be based on serious grounds, proven to a high degree of probability.

[25] The strict criteria required for a finding of bias shows us that decision-makers step aside only when absolutely required to do so, not simply because a party would prefer someone else to hear their case. Decision-makers have a duty to hear the cases assigned to them, and this cannot be affected by the preferences of a party and without very good reason. Asking a decision maker to remove themselves simply because a party doesn't like them, would prefer someone else, or has personal biases not only unnecessarily delays proceedings, but it can also be seen as "judge shopping" in the hopes of obtaining a favourable decision. This would erode the administration of justice and damage the reputation of the judiciary, tribunals, and administrative legal bodies.[13]

The Appellant's Reasons for Bias

[26] The Appellant was provided an opportunity to provide his arguments and evidence for why he thinks I am biased.[14] He stated that the evidence is his original hearing and the case conference, where he was muted without his permission, and his arguments were his previous statements made to the Tribunal about my behaviour.[15]

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[11] See *Yukon Francophone School Board, Education Area No. 23 v Yukon (Attorney General)*, 2015 SCC 25 at para 26.
[12] See *Taylor Ventures Ltd. (Trustee of) v Taylor*, 2005 BCCA 350.
[13] See *De Cotiis v De Cotiis*, 2004 BCSC 117 at paras 10-11; *R. v Anderson*, 2017 BCCA 154 at para 16; and *Liszkay v Robinson*, 2003 BCCA 506 at para 53.
[14] See GD28.
[15] See GD29-1.

[27] He also indicated that his concerns were “more about the lack of respect” he felt he received verses the other party and “the [intentional] bullying [he] experienced with the staff member.”[16]

[28] Since the Appellant has not provided any specific incidents or fulsome arguments for me to focus my analysis on, I must look at the Appellant’s interactions with the Tribunal as a whole. A crucial part of this assessment must include whether or not the Appellant’s statements are credible.

– **Appellant’s Credibility**

[29] I find that the Appellant’s perception of the interactions he has had with the Tribunal as a whole, including his first hearing and the case conference, is not supported by the facts. The Appellant has a deeply held belief that, for 15 years, someone has been actively working to traumatize him, take his rights away from him, set him up, and corrupt his case. In his own words, the Appellant has admitted that this belief causes him to view everything as part of this conspiracy, even when confronted with the facts. In other words, the Appellant has a personal bias that affects the way he interprets events.

[16] See GD29-2.

[30] The assessment of credibility is not a science. Determining credibility is "a difficult and delicate matter that does not always lend itself to precise and complete verbalization" of the "complex intermingling of impressions that emerge after watching and listening to witnesses and attempting to reconcile the various versions of events."[17] However, there are principles that can help assess credibility:[18]

a) Inconsistencies in a person's evidence. This includes prior inconsistent statements, inconsistencies between their testimony and other evidence, selectively presenting or omitting facts, and inconsistent behaviour.
b) Contradictions between a person's evidence and independent evidence.
c) Whether the person's testimony is plausible or reasonable.
d) The person's demeanour, including their sincerity and use of language.
e) Any motive a person may have to fabricate, manipulate, exaggerate, or downplay evidence.

[31] The Appellant has displayed all five of these credibility issues throughout the appeal process with Tribunal staff, and in his hearing and case conference.

[32] The Appellant made several statements in the hearing that indicated that he believed that the Commission was acting in bad faith and that he was the subject of a political conspiracy. At the start of his testimony, he said that "they need this and that, blah, blah, blah, they always look for this, you know? And it feels like they're looking just to do something, like something was fishy the way they asked. You don't know what they're looking for…maybe somebody's behind it, like you went to, you know, a politician or somebody just to piss me off."[19] Throughout the hearing he kept referring to a reconsideration committee that approved his benefits, who then denied those benefits for no reason, and that information in his account would "disappear."

[33] There is nothing in the evidence that supports any of these statements. There is no "reconsideration committee" that reviews Commission decisions, and there was only

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[17] See *R. v R.E.M.,* (2008) 3 S.C.R. 3, 2008 SCC 51 at para 49; and *R. v Gagnon,* (2006) 1 S.C.R. 621, 2006 SCC 17 at para 20.
[18] See *Novak Estate (Re),* 2008 NSSC 283, at para. 36
[19] See 12:59 through 15:25 of the first hearing recording.

one reconsideration decision made on the Appellant's 2022 claim for self-employment benefits.

[34] The Appellant also appears to have misinterpreted or misrepresented the discourse between the Commission, himself, the CRA, and his accountant. In his testimony, the Appellant stated that these conversations resulted in him being approved and "all of a sudden" he is not approved anymore, and he is being asked for documents he doesn't need to provide because he is not a large business. He claims that this is proof that "something is fishy."[20]

[35] The Reconsideration File call notes clearly indicate that multiple calls were made between the Commission, the Appellant with his accountant, and the CRA, and that the Appellant and his accountant were informed, multiple times, that the Appellant's 2022 taxes needed to be refiled with a completed Schedule 13.[21] The Appellant's accountant stated that "it is the responsibility of the CRA" to complete the Schedule 13, and the CRA indicated that was not correct.[22]

[36] Taken as a whole, the Reconsideration File makes it clear that the Commission went to extraordinary lengths to help the Appellant understand that a completed Schedule 13 for the 2022 tax year needed to be filed in order to resolve this issue, and without it the Commission has no way of verifying his self-employment earnings. At no point in the many conversations the Commission had with the Appellant during the reconsideration process was there any indication that the matter had been resolved or that a representative had told the Appellant that they were going to approve his benefits. Rather, the Commission's representative stressed the importance of the Appellant filing a Schedule 13 with his 2022 income tax, and reiterated that she would contact the Appellant as soon as new information was available.[23]

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[20] See 13:10 of the first hearing recording.
[21] See GD03-85; GD03-93; GD03-100 and 101 it was stated a minimum of six times in one conversation; and GD03-111.
[22] See GD03-96.
[23] See GD03-98 and 99 for example.

[37] At the end of the first hearing, I highlighted issues in the Appellant's evidence because he submitted an Uber Tax Summary and a T4 slip that were in two different names that were not his as evidence of earnings. These documents were sent by the Appellant to the Commission as part of the reconsideration process, and to the Tribunal in response to a request from myself for a copy of the Appellant's 2022 tax filing.[24]

[38] At first the Appellant appeared to take responsibility for this error by saying that he has many people's information on his computer as a social worker, and he must have mistakenly supplied his friend and his girlfriend's tax information instead of his own. But, this quickly evolved into claiming that "somebody is doing this," "somebody took this out of my account and sent it to you," that there is foul play at the Commission, someone at the Commission is out to get him, and the Commission is bullying and traumatizing him.[25] By the conclusion of the hearing, the Appellant had changed his focus from the Commission conspiring against him to "maybe somebody from [his] friends, somebody doesn't like [his] politics" is involved in a plot to discredit him and use the Commission to harass him.[26]

[39] After the hearing ended, the Appellant appears to have decided that either the Tribunal or myself accessed his girlfriend and friend's tax documents inappropriately, and were complicit in "poisoning the well" against him. He then proceeded to contact the Tribunal multiple times in a very short period of time.

[40] On July 22, 2025, at 12:52 MT (approximately one hour after the hearing ended), the Appellant told the Tribunal call centre that he "believed that the member had access to documents under someone else's name during the hearing, which the member should not have had access to. [He] explained that documents from [his] phone with [his] girlfriend's and friend's names had come up during the hearing and the appellant didn't know how."[27]

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[24] See GD03-137 and 139, and GD09-8.
[25] See 29:41 through 41:05 of the first hearing recording.
[26] See 44:09 of the first hearing recording.
[27] See July 22, 2025, 2:52 PM Call Log: "The appellant called regarding concerns over the hearing they had this morning. They believed that the member had access to documents under someone else's name during the hearing,

[41] At 13:32 MT, the Appellant called the Tribunal call centre to enquire about "a mysterious document that he never sent to EI and yet came into possession of [the Tribunal Member] earlier today."[28]

[42] At 14:31 MT, the Appellant called the Tribunal call centre "to complain about some documents that are part of his file," and the Tribunal informed him that the documents were submitted by himself and if he wished he could submit his concerns in writing.[29]

[43] At 16:48 MT, the Appellant emailed the Tribunal that his hearing "was successful." While he accepted that it may have been by mistake (though he does not specify whose), I still accessed other people's tax documents, so the hearing "should have been better" and I should have focussed on other documents instead. He called the continuation (adjournment) unfortunate and ends the email by stating that "it's great 👍 start for my case thank you."[30]

[44] The Appellant's email is perplexing because he starts and ends it with two resoundingly positive statements, but the body of the email completely contradicts them. This makes it difficult to reconcile the Appellant's independent statements with each other and determine whether he was wanting an issue addressed or was happy to proceed. The only way the email becomes internally consistent with itself is if one reads the positive statements in a sarcastic tone.

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which the member should not have had access to. They explained that documents from their phone with their girlfriend's and friend's names had come up during the hearing and the appellant didn't know how. I went through all additional documents received from the appellant on the file (GD06, GD07 & GD09) and skimmed them for names other than the appellant's but could not find any.
I told the appellant I would leave a note on their file explaining their concerns. They wanted to get in contact with the tribunal members, and I told them that the note will be forwarded to a registry officer and that appropriate steps will be taken if necessary. The appellant added that they will be away from August 12 to October 5 and hoped to receive communication on this matter before then."

[28] See July 22, 2025, 3:32 PM Call Log: "The appellant called again about a mysterious document that he never sent to EI and yet came into possession of Member Varaschin earlier today. I told him we would contact him if/when we discover what happened with that document."

[29] See July 22, 2025, 4:31 PM Call Log: The appellant called to complain about some documents that are part of his file. I informed him to submit his request in writing after informing him that the documents were submitted by himself and are GD3-137 and 139 and GD-8"

[30] See GD13.

[45] The Appellant's dissatisfaction with a thorough review of the appeal record and a refusal to ignore issues with his evidence is irrational. It is both my duty and obligation to consider and evaluate all of the evidence put before me by all parties; if I failed to do so, any decision I make would unreasonable and have multiple grounds for appeal. Furthermore, parties to an appeal should expect and demand that their tribunal member diligently evaluate and analyze the entirety of their case as a matter of basic competency and respect, not bemoan them taking their role seriously.

[46] The Appellant's displeasure that his hearing was adjourned is confusing because this was clearly done for his benefit—I could have simply closed the hearing and dismissed the appeal for a lack of evidence. Instead, I gave him a chance to address the gaps in his case and appear a second time to present his evidence.

[47] At 10:56 MT on July 23, 2025, the day after the hearing, I sent the Appellant a letter reminding him that the Uber tax summary for T. W. and the T4 for L. Z. were sent to the Commission by the Appellant through his My Service Canada Account on June 18, 2025 (processed June 26, 2025) and resent the Uber tax summary to the Tribunal by email on July 4, 2025.[31]

[48] At 12:07 MT, the Appellant called the Tribunal to "to complain about the same documents." The Tribunal representative instructed the Appellant to reply to my letter and the Appellant's behaviour forced him to end the call.[32]

[49] At 12:35 MT, the Appellant emailed the Tribunal stating he would submit a completed Schedule 13, but that I have more than enough documents to allow his appeal "according to the policy." He asked to be informed if he sends any documents that have someone else's name on them, and stated that the improper tax documents were "not confirmed from employment insurance or from the tribunal" and questioned if they even sent them to me to review.[33]

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[31] See GD14.
[32] See July 23, 2025, 2:07 PM Call Log: "I spoke to the appellant who called again to complain about the same documents, I told him answer the one-off letter from the TM and that I would not listen to him anymore on this subject and ended the call."
[33] See GD15.

[50] At 14:12 MT, the Appellant emailed the Tribunal that he will obtain his evidence once he is better. He admitted that he might make mistakes, but stated that the Tribunal staff should be more professional and are ethically required not to accept documents without his name on them.[34]

[51] At 15:38 MT, the Appellant called the Tribunal to verify that we received all three emails he had sent that morning. “The Appellant suddenly decided to end the call before [the Tribunal representative] could attend to [his] request, because [he was] recovering from appendix surgery.”[35]

[52] On July 24, 2025, at 14:37 MT, the Appellant emailed the Tribunal that it was very hard for him to understand “what [he] witnessed” in his hearing because “the staff” (referring to the Tribunal Member deciding his appeal) “selectively brought only the two documents without [his] name” and accused me of being “so amateurish,” wasting his hearing and intentionally ignoring the other documents to focus on the contradictions in his evidence. He went on to state that it was emotionally disturbing and I was “just staff but doing the negative.”[36]

[53] The sharp departure from being concerned about a non-existent privacy breach to attacking the competence of a Tribunal Member is inconsistent with multiple statements the Appellant made the previous two days, as well as with the Appellant’s demeanor at the hearing.

[54] In the hearing, the Appellant initially appeared to be grateful that I raised the incorrect tax documents so that he could send the correct ones for me to review. The Appellant expressed concerns and displeasure with the Commission, but did not appear to have any issues with the way the hearing proceeded. The Appellant had no concerns about obtaining the correct documents and continuing the hearing at a later date. If the

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[34] See GD16.
[35] See July 23, 2025, 5:37 PM Call Log: “The appellant called us to find out if we had received the three emails they sent us today. They had gotten an automatic acknowledgement of receipt for all three, but only a confirmation for the first two. I began to look into their file to see if I could find the emails they sent, but the appellant suddenly decided to end the call before I could attend to their request, because they were recovering from appendix surgery.”
[36] See GD18.

Appellant had an issue with adjourning the hearing or providing the correct documents, he should have raised it at the hearing.

[55] As I indicated above, it is my primary duty to review and evaluate all of the evidence placed before me. The Tribunal *Rules of Procedure* require me to "actively adjudicate," which means I am expected to explain the issues in the appeal, raise gaps or inconsistencies in the evidence, and if I choose to, I can give parties extra time to address those issues.[37] As part of evaluating evidence, I am required to determine whether a document is relevant or how much weight I should give to it when making a decision. It is both illogical and unreasonable for any party to be offended that a tribunal member has performed their most basic of duties and is lenient enough to allow them extra time to clarify their case and submit additional evidence.

[56] As a result of the Appellant's post-hearing communications with the Tribunal, a case conference was scheduled for July 29, 2025, which was communicated to the Appellant on July 25, 2025.[38] The purpose of the case conference was to clarify that there was no privacy breach regarding the tax documents with other people's names on them because they were sent by the Appellant to the Commission and the Tribunal, and to ensure that the Appellant understood which documents I was referring to for his additional evidence. Since he had also mentioned he had surgery, I wanted to reconfirm his ability to submit his additional evidence within the original timeframe.[39]

[57] At the outset of the case conference, I explained to the Appellant that there was no privacy breach regarding the tax documents, and asked if he had any further concerns about them. He responded that he believed that somebody "selectively" gave me these two documents out of the 100 he sent, and this "wasted" his day.[40] I explained to the Appellant that I raised those documents at the hearing because they did not make

[37] See sections 8(2) and 17(2) of the *Social Security Rules of Procedure*.
[38] See GD17.
[39] See GD11.
[40] See 3:50 through 4:31 of the case conference recording.

sense as part of his evidence. The Appellant spoke over me and said “anyway, continue.”[41]

[58] The Appellant was provided an opportunity to elaborate on his concerns and to explain why he felt that it was unfair to identify the gaps in his evidence and allow him more time to submit relevant documents.[42] He stated that he has experienced 15 years of “this drama” and every time he asks something he gets bullied, and this history is how he judges all of his interactions regarding his EI claims. But, he trusts the Tribunal “way better” and it was “very nice” to him.

[59] The Appellant explained that he was very confused when he heard that he didn’t submit any documents, because he had submitted a lot of documents, and his confusion grew to suspicion when he heard that the only documents before the Tribunal were the two tax documents without his name. He said he called the Commission and the Tribunal, and both agencies stated they did not have the documents on record.[43]

[60] The Appellant went on to say that once he received my letter explaining that he was the person who sent the documents to the Commission and the Tribunal, he understood what happened, but it was too late to change his perception:

> *Fine. That thing just flipped me, like I was really, really, disturbed. I thought somebody intentionally or selectively did that and gave it to you in order to interrupt my meeting. Because I believe…somebody's trying to traumatize me, or they would just want to take my rights from me.*

He stated that he has the “mentality” and the belief that he shouldn’t even need to argue about this case because he was approved by the Commission, he was paid, and there is no reason for him to be put in a position to repay his benefits. As a result, the Appellant’s mindset coloured his interpretation of events:

> *“I feel like somebody set me up, so I have that belief in my mind…so when you say like that, completely, I flipped, I flipped, and connected all the things to that. Then I thought, still, somebody's doing this to me to piss me off…you know to “fix” my case. That’s how I took it”* [44]

[61] I addressed the Appellant’s concerns by reminding him that, in the hearing, I told him I had confirmed that I had received all of his documents, but that the only evidence

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[41] See 6:21 through 6:32 of the case conference recording.
[42] See 11:46 through 15:11 of the case conference recording.
[43] See 12:44 through 14:01 of the case conference recording.
[44] See 14:09 through 15:04 of the case conference recording.

on file that could be used to prove his self-employment earnings were the tax documents that did not have his name on them. I also reminded the Appellant that, in the hearing, I had explained that while the Appellant had submitted multiple documents, none of them were the documents that the Commission or the Tribunal had suggested he provide. The Appellant agreed that my summary was accurate when I asked him to confirm my statements: "that's what you said, but… like I said…"[45]

[62] I also confirmed with the Appellant that, at the hearing, I had explained that his T2125 Statement of Business or Professional Activities by itself did not prove his self-employment earnings because it determines taxable business income, which is a legally distinct calculation, and that his Notice of Assessment only shows his taxable income, which could include many different things other than just self-employment earnings. The Appellant confirmed my summary dismissively by responding, "yeah, yeah."[46]

[63] Just as the Appellant agreed in the case conference, the evidence shows that the Appellant's recollection of the hearing is inaccurate. At the outset of the hearing, I informed the Appellant that I had reviewed all the documents on the appeal record, and confirmed that the documents I had in front of me were the three documents that made up his Notice of Appeal, the reconsideration file, the Commission's representations, the two letters I sent to the Appellant requesting his tax documents, and the two responses he sent regarding those letters.[47]

[64] During the hearing, I explained that the core issue with the Appellant's appeal is that he has not provided a completed Schedule 13 as part of his 2022 income tax return, which the CRA and the Commission previously explained was necessary to prove his self-employment earnings. I reminded the Appellant that the letters I sent to him specifically asked him to provide a copy of his complete 2022 tax return, including his Schedule 13, and the information he submitted did not include that.[48] I also

[45] See 15:51 through 15:57 of the case conference recording.
[46] See 16:40 through 16:54 of the case conference recording.
[47] See 5:08 through 5:56 of the first hearing recording.
[48] See 20:01 through 21:22 of the first hearing recording.

explained to the Appellant that his T2125 did not include all the information required to prove his self-employment earnings and stressed the importance of providing a Schedule 13.[49]

[65] At 19:05 MT on July 29, 2025 (the day of the case conference), the Appellant emailed the Tribunal and stated that, for the most part, his case conference "went very well," and it was "successful". His previous questions were answered, he felt the Tribunal was aware of the hearing's misunderstandings, and thanked the Tribunal for its efforts. The only issue the Appellant raised was not being allowed to ask the Commission all of his questions, and referred to his appeal as "an unethical case against [him]".[50]

[66] At 8:14 MT on July 31, 2025, (two days after the hearing), the Appellant called the Tribunal to "voice his concerns about how his Case Conference took place and the actions taken by the Tribunal Member," and to enquire how Tribunal Members are hired.[51]

[67] At 10:24 MT, the Appellant emailed the Tribunal to say that, while the Tribunal is a great help to him, he feels that his rights are not protected in "any of the services provided to [him] as [our] client." The Appellant was of the opinion that a case conference should only follow his needs and interests, and not those of the Tribunal Member (which he calls "staff"). He stated that he was harassed and bullied because he was muted and being told that the Tribunal Member was the decision maker was threatening. He ends his email by saying these statements are "just to improve the Tribunal for better services."[52]

[68] At 15:51 MT, the Appellant called the Tribunal to verify that the Tribunal had received a screenshot that he emailed. "He then ranted a bit about EI, saying he thinks

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[49] See 22:27 and 31:38 of the first hearing recording.
[50] See GD21.
[51] See July 31, 2025, 10:14 AM Call Log: "The appellant called to voice his concerns about how his CC took place and the actions taken by the TM during the meeting. I explained to the appellant that he can send his complaint in writing to the generic inbox for review. He was also explained to the hiring process for GIC's."
[52] See GD24.

they are sabotaging him. He also mentioned Member Varaschin, who was supposedly ‘bullying’ him and agreeing with the Commission at every turn during the hearing.”[53]

[69] At 16:53 MT, the Appellant emailed the Tribunal arguing that he did not need to provide a “Schedule 14” (referring to a Schedule 13) because he was “approved by reconsideration committee because they just have to confirm whether I pay in 2022 for self-employed special benefits.” He ended the email with “just let me know what my mistake is or why I’m here, it's so confusing and bullying???”[54]

[70] Once again, the Appellant’s position and interpretation of events seems to swing dramatically from the case conference being “successful” and productive to an infringement on his rights, replete with bullying and threatening behaviour. While the Appellant was muted three times in the case conference, it was because the Appellant refused to stop speaking over others and to maintain order during the proceedings. I will address my obligation to uphold the integrity of the adjudicative process in the next section of this decision.

[71] The Appellant’s argument that being told the Tribunal Member is “the decision-maker” for his appeal is a threatening act has no merit. This is a factual statement—Tribunal Members are not Tribunal “staff,” they are the decision-makers. When the Appellant wanted to ask the Commission questions in the case conference, he was informed that there were rules limiting the kind of questions he could ask. He was instructed “not to discuss or argue [his] case before her, I am the decision-maker of the case, so there will not be any discussions on the merits of [his] appeal.”[55]

[72] When the Appellant waded into the merits of his case, and made incorrect statements about the evidence, I interrupted him to get him back on track and to clarify what the evidence said. The case conference was already overtime and needed to be

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[53] See July 31, 2025, 5:51 PM Call Log: “The appellant called to let us know that he sent us a screenshot that his son printed, by email. I told him it should be added to his file tomorrow or maybe Monday. He then ranted a bit about EI, saying he thinks they are sabotaging him. He also mentioned Member Varaschin, who was supposedly "bullying" him and agreeing with the Commission at every turn during the hearing. I told him that I would transmit all of that to the people working on his file.”
[54] See GD23.
[55] See 26:24 through 26:46 of the case conference recording.

concluded. The Appellant became combative and disrespectful, sarcastically sneering "so you're the one supposed to save time, yeah."[56] I began stating that "I am the tribunal member making the decision on your file, so I am going to clarify some of the evidence that you just brought up," because his line of questioning at this point should have been directed at me, but was immediately interrupted by the Appellant again.[57]

[73] These were the only two instances "decision-maker" was mentioned or alluded to throughout the case conference, and it is impossible for a reasonable person to conclude that such statements could be intimidating or threatening in nature.

[74] The Appellant was clearly informed multiple times in writing and verbally, before his hearing, during his hearing, after his hearing, and in the case conference that the primary issue in his appeal was an incomplete Schedule 13 in his 2022 income tax return. He was also clearly informed that his GST return only shows how much tax he collected on behalf of the Government of Canada, and that his Notice of Assessment and Statement of Business Activities include amounts that do not count as self-employment earnings. This information was also repeatedly explained to the Appellant by the Commission and CRA during the reconsideration process. There has been no change in the documentation the Appellant has been asked to provide, the Appellant has simply not provided a completed Schedule 13. No reasonable person could conclude that consistently requesting the same document from an individual could be construed as confusing, harassing, or bullying when that individual consistently fails to provide it.

[75] At 14:09 MT on August 1, 2025, the Appellant emailed the Tribunal requesting the contact information for the Privy Council Office.

[76] At 11:40 MT on Sunday, August 3, 2025, the Appellant emailed the Tribunal claiming that "there are individuals in the name of the Tribunal but doing the negative," that the staff are "irresponsible, disrespectful and [have] no ethical attitude for the clients," and they were ignorant, bullying and harassing him. The Appellant states he

[56] See 31:18 of the case conference recording.
[57] See 31:13 through 31:32 of the case conference recording.

was frustrated and confused by his experience with the Tribunal, and it was "fabricating bad mental health."[58]

[77] At 15:20 MT the Appellant sent a follow up email indicating that he would not accept any decision from "same staff" until the situation was investigated and he received answers for "all her harassment and bullies towards me so biased for no reason instead of doing Tribunal job."[59] As a result of the Appellant's email, I decided to proceed with an interlocutory decision on bias.

[78] I find that the Appellant's allegations that I was incompetent, unfair, or biased for reviewing all of the evidence before me, highlighting an issue with his evidence, offering him additional time to provide more evidence, and giving him a second chance to present his case at another hearing undermines his credibility. It is wholly unreasonable for a person to conclude that a decision-maker at a tribunal behaved improperly by thoroughly examining the evidence submitted or for assisting that person in improving his case.

[79] I find that the Appellant's allegations that I bullied, harassed, threatened, and traumatized him by maintaining order in the case conference, explaining my role, and helping him close the gaps in his evidence undermines his credibility. These allegations ones that a reasonable person would be unable to reconcile with the facts.

[80] I find that the Appellant's statements about his interactions with the Tribunal staff and myself are not credible because his own interpretation of events change as time goes on. His statements about his experiences in his hearing, his case conference, and communicating with Tribunal staff are inconsistent with each other, as well as with the documentary and audio evidence in the appeal record. The Appellant's tendency to selectively pick and choose details so they fit his narrative further undermines his credibility.

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[58] See GD26.
[59] See GD26A.

[81] Finally, I find that the Appellant's allegations that I bullied, harassed, traumatized, and threatened him, and that I behaved incompetently or demonstrated bias against him, are not credible not only because there is no evidence to support such statements, but because the Appellant has admitted that he is unable to separate reality from his deeply held belief that someone is conspiring against him. The Appellant admitted that this belief causes him to misconstrue events, even when he understands the facts before him, to suit his internal narrative.[60]

[82] In short, before the Appellant even filed this appeal, he had a pre-existing belief that being retroactively denied EI benefits was part of a longstanding, hidden scheme to harm him.[61] This pre-existing belief influences his view of the Tribunal, and prevents him from objectively assessing his interactions with Tribunal staff and myself. In other words, the Appellant has a personal bias against the Tribunal.

The Tribunal's Obligation to Manage the Process

[83] The Appellant argues that I am biased because I did not allow him to ask the Commission certain questions and muted his microphone multiple times in the case conference. He says that this constitutes bullying and harassment, and shows that I do not treat him with the same level of respect as the Commission.

[84] As I detailed above, the Appellant has demonstrated a history of not following clear instructions, misinterpreting facts and misconstruing events to suit his personal perceptions, and behaving in a rude, argumentative, and ungovernable fashion, both inside the hearing and with Tribunal staff. This behaviour undermines the integrity of the adjudicative process, and I am obligated to take whatever steps are necessary to limit disrespectful and disruptive behaviour to keep the appeal process moving forward appropriately.

[85] As a matter of fairness, neither the Appellant nor the Commission can be allowed to derail or commandeer proceedings, make derogatory statements about any

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[60] See 14:09 through 15:04 of the case conference recording, and paragraph 60 for the Appellant explaining how, even when he understood the facts, he was unable to separate them from his internalized conspiracy.
[61] For example, the Appellant calls this an "unethical case against him."

participant, behave in a rude or unacceptable manner, or unreasonably delay the appeal process. All participants in an appeal have the right to expect the proceedings to be conducted efficiently, in a respectful and professional manner. When a participant becomes rude, aggressive, or disruptive, such as speaking over others with a disrespectful tone, the presiding member should be expected to intervene. Furthermore, the Tribunal's *Rules of Procedure* require me to conduct the process as quickly as fairness allows,[62] which means I am obligated to intercede when any party behaves in a manner that causes a proceeding to be longer than necessary.

– **Access to Justice Principles for Self Represented Appellants**

[86] The Tribunal uses "active adjudication" in its appeal process to facilitate access to justice and make things easier to understand for self-represented appellants.[63] While the Tribunal is not a judicial body, it is still a quasi-judicial body, and should adhere to the same practices and principles as the judiciary, and follow the guidance of the Courts in administering a fair and equitable process for self-represented appellants, especially in situations not covered by the Tribunal's *Rules of Procedure* or *Code of Conduct*.

[87] The Appellant is self-represented. The Supreme Court of Canada has endorsed the *Statement of Principles on Self-represented Litigants and Accused Persons* (*Statement of Principles*) established by the Canadian Judicial Council as the appropriate standard for decision-makers and administrators to follow when managing cases with self-represented appellants.[64]

[88] The *Statement of Principles* says that the courts and tribunals have a responsibility to create the opportunity for all parties to understand and meaningly represent their cases, which includes referring self-represented people to appropriate sources of information and assisting them in preparing and presenting their case.[65] It

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[62] See section 8(1) of the *Social Security Rules of Procedure.*
[63] See sections 8(2) and 17(2) of the *Social Security Rules of Procedure*.
[64] See *Pintea v Johns,* 2017 SCC 23 at para 4: We would add that we endorse the Statement of Principles on Self-represented Litigants and Accused Persons (2006) (online) established by the Canadian Judicial Council.
[65] See Section A, *Canadian Judicial Council*, Statement of Principles on Self-represented Litigants and Accused Persons, September 2006.

also says that **all participants** are accountable for understanding and meeting their obligations in order to receive equal access to justice, including procedural fairness.

[89] Decision-makers and administrators have no obligation to assist a self-represented person who is disrespectful, frivolous, unreasonable, vexatious, abusive, or making no reasonable effort to prepare their own case. Self-represented persons are required to be respectful of the process and the officials within it. Vexatious litigants should not be permitted to abuse the process.[66]

[90] The *Statement of Principles* stresses that, just like every other participant, self-represented people are subject to the provisions used by the courts and tribunals to maintain control of their proceedings and procedures. As such, self-represented people may be treated as ungovernable or abusive litigants when the administration of justice requires it, and their actions may limit the ability of decision-makers to maximize the use of access-to-justice principles.[67]

[91] The Canadian Judicial Council sets out the *Ethical Principles for Judges (Ethical Principles)*, and while these principles are only binding on the judiciary, as the highest standard for judicial conduct, they are extremely relevant to how tribunal members manage hearings. The *Ethical Principles* highlight that:

- Sometimes judges are required to act with a suitable amount of firmness when participants behave inappropriately in order to instill the importance of respecting timeliness, decision-making authority, and preventing the abuse of process or others in the adjudicative process. Maintaining civility and respect requires judges to balance upholding the right of parties to be heard and ensuring the efficiency of the process.[68]
- Judges are expected to listen impartially, but, when necessary, should assert control over the proceeding and act with appropriate firmness to maintain an atmosphere of dignity, equality, and order. Judges should be alive to the issues

[66] See Section C, *Canadian Judicial Council*, Statement of Principles on Self-represented Litigants and Accused Persons, September 2006.
[67] See Section B, *Canadian Judicial Council*, Statement of Principles on Self-represented Litigants and Accused Persons, September 2006.
[68] See Section 2.C.3 of *Canadian Judicial Council*, Ethical Principles for Judges, 2021.

before the court and, where appropriate, seek clarification and provide balanced rulings on the relevance of a given line of questioning.[69]

- Judges should ensure that proceedings are conducted in an orderly and efficient manner and that the court process is not abused. An appropriate measure of firmness may be necessary to achieve this end. In the presence of challenging or vexatious litigants, judges should be firm, decisive and at the same time respectful to ensure that litigants' rights are protected.[70]

[92] What this means is that decision-makers, such as judges and tribunal members, have an obligation to assist parties in understanding the process and procedures, the applicable legal arguments for the matter under consideration, and how to prepare and present their case. But, self-represented parties are still required to behave appropriately throughout the proceedings and respect the process, the people involved, and the authority of the decision-maker. If a party behaves inappropriately, is disruptive or disrespectful, then the decision-maker is required to take steps to protect the integrity of the adjudicative process. Parties cannot be allowed to derail proceedings through ungovernable, abusive, or disrespectful behaviour, badgering participants, or causing unnecessary delays.

– **Failing to Follow Direction**

[93] The Appellant consistently fails to follow basic instructions, respond to simple questions, or adhere to the direction given to him during proceedings and in writing. This behaviour causes excessive delays, unnecessarily protracts proceedings, and contributes to an escalation in the Appellant's inappropriate behaviour.

[94] The Appellant appears to expect the right to speak at length, uninterrupted, about what he wants to speak about, regardless of if it is appropriate, relevant, or timely for him to do so, and begrudges any attempt to curb inappropriate rants. When the Appellant is forced to follow direction or procedure, he frames the situation as bullying, harassment, or taking away his rights. A prime example of this was the email he sent to the Tribunal after his case conference, complaining that he was not allowed to run the

[69] See Section 4.B.3 of *Canadian Judicial Council*, Ethical Principles for Judges, 2021.
[70] See Section 5.A.7 of *Canadian Judicial Council*, Ethical Principles for Judges, 2021.

meeting: “when I have a case conference I don't want the staff to spend time on their interests? It has to be following my interest and needs period!??... that's harassing client and bullying please.”[71] It is the role of the Tribunal Member to dictate the course of proceedings in case conferences and hearings, not that of either party.

[95] Case conferences are purely an administrative tool used to clarify or simplify the process or determine procedure for an appeal; they are not forums to hear arguments on the merits of an appeal. In the case conference, the Appellant started to re-argue his case instead of answering a question about any further concerns about the tax documents that had other people’s names on them. As the presiding Tribunal Member, it is my duty to ensure that parties are not straying from the agenda or attempting to litigate their case at a case conference. So, I interrupted the Appellant to clarify that the purpose of the case conference was to address the issues he had raised with his communications with the Tribunal, and that it was inappropriate for him to make any arguments about his case. The Appellant insisted on speaking over me, and I needed to repeat my instructions before he acknowledged that he was not to reargue his case during the call.[72]

[96] Despite clearly hearing, understanding, and acknowledging the instruction that he was not to make any arguments about his appeal during the case conference, the Appellant continued to treat the call like another hearing. When asked if he needed more time to provide a completed Schedule 13, instead of answering, the Appellant asked permission to ask the Commission’s representative questions.

[97] The Appellant then proceeded to speak at length about the merits of his case without any question being raised. So, I interrupted the Appellant again, to warn him that he was rearguing his case and that it was not appropriate. The Commission’s representative also stressed that, since his file was before this Tribunal, she must defer to me, as the presiding member.

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[71] See GD24.
[72] See 5:21 through 6:01 of the case conference recording.

[98] Again, the Appellant acknowledged he was not supposed to raise arguments about the merits of his case by stating, “okay, okay, okay, now I get it. Alright. Maybe I raised that issue, yeah.”[73]

[99] The Appellant also asked the Commission’s representative, “do you think my business needs Schedule 13? The CRA confirmed that I don't need Schedule 13.” There were three issues with the question and statement made by the Appellant: first, he was asking for tax advice, and neither the Commission nor the Tribunal can provide tax advice. Second, the Appellant made an objectively incorrect statement, because the CRA specifically told him that he needed to file a Schedule 13.[74] Finally, the Appellant was, once again, attempting to litigate the merits of his case. So, I interrupted exchange before the Commission’s representative could respond to address the inappropriate nature of the Appellant’s question. The Appellant became hostile and told me to mute myself because he was speaking to the Commission.[75] The Appellant was informed that, as the chair of the case conference, I had the authority to dictate who speaks with whom.[76]

[100] The Appellant asked if he needed to file a Schedule 13 for his registered business. The Appellant was informed that neither myself, nor the Commission’s representative, would be answering any questions about whether the Appellant needs certain tax filings because we are not authorized to give tax advice.

[101] However, I did explain, for the third time in the call, that every person enrolled in self-employment benefits must file a Schedule 13 with their tax return to calculate how much their premiums are for that year and to report to the Commission what their self-employment earnings are. The Appellant then attempted to ask the Commission’s representative the same taxation question, which was inappropriate because it was

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[73] See 8:21 through 11:43 of the case conference recording.
[74] See GD03-93 and GD03-96.
[75] See 30:43 through 31:01 of the case conference recording: “No, no, no, can I ask… I'm talking to her. And I speak to her, please, can you mute yourself?... because me and her, we're chatting, right?...I just don't understand it. Like, what is the issue with you? With this?”
[76] See 30:42 of the case conference recording.

seeking tax advice, and he had already received an answer. So, I did not allow the question to proceed.[77]

– **Disruptive and Disrespectful Behaviour**

[102] The Appellant has demonstrated a lack of respect for the authority of the Tribunal, and basic decorum, during both the hearing and the case conference, by consistently interrupting or speaking over others with an aggressive tone and being argumentative. Since the Appellant has focussed his bias arguments on being muted during the case conference, I will limit my examples of his inappropriate and vexatious behaviour to the case conference.

[103] As I detailed above, at the start of the call I asked the Appellant if he had any further concerns about the tax documents with other people's names on them. After several minutes of the Appellant restating his case instead of answering the question he was asked, I interrupted him to get him back on track. The Appellant proceeded to argue with me and demanded I let him finish. He then proceeded to interrupt and speak over me while I was attempting to explain to him that a case conference is not the venue to argue his case.[78]

[104] While addressing the Appellant's concerns about the tax documents and his gaps in evidence, he continued to interrupt and speak over me. I was generally unable to finish a sentence or explain a concept without the Appellant interrupting me and speaking at length. He would end his outbursts with "anyway, continue," and at one point stated, "don't waste our time," regarding the issue I was attempting to clarify.[79]

[105] When I asked the Appellant if he needed more time to submit a completed Schedule 13, he ignored my question and focussed on questioning the Commission.[80]

[106] After being given permission to ask the Commission a question, the Appellant was allowed to speak for a minute and a half with no question being posed, so I

[77] See 33:21 through 35:30 of the case conference recording.
[78] See 5:22 through 6:15 of the case conference recording.
[79] See 6:19 through 8:37 of the case conference recording.
[80] See 8:40 through 9:00 of the case conference recording.

interrupted him to maintain order. The Appellant attempted to argue with me that he should be allowed to continue, and the Commission's representative interjected to confirm that she was well versed in the facts. The Appellant proceeded to interrupt and speak over the Commission's representative. At this point, I interjected again and brought the call back to order.[81]

[107] When offered the opportunity to address the statements and allegations the Appellant made in his July 24, 2025, email, the Appellant was allowed to present his full statements uninterrupted, which took approximately three minutes for the first, and a minute and a half for the second. But, when I attempted to clarify what the difference was between the documents that he provided and what was asked of him, he resumed interrupting me and speaking at length. The Appellant was not willing to cede the floor despite me obviously trying to regain order. So, after the Appellant asked, "what can I do?" he was placed on mute so I could answer him fully.[82]

[108] As soon as the Appellant took himself off mute, he resumed interrupting my statements and proceeded to once again take over the call by saying "so, anyways," and launching into several minutes of speaking.[83]

[109] At 24 minutes into the call, my Zoom client crashed, and I rejoined the call in under one minute.

[110] At 25:45 into the call, S. A. was silent after my statements and I checked if he was still present. His zoom profile indicated that, after I asked if he was on the call, he cycled through mute and unmute by himself. He then proceeded to accuse me of putting him on mute, I assured him I had not.

[111] The Appellant proceeded to ask if the Commission representative was present, and she confirmed she was. He then attempted to start asking a question despite me trying to assert that there are rules he must follow in his line of questioning. Since the rules of procedure are vital to the fair administration of justice and the integrity of the

[81] See 9:00 through 12:02 of the case conference recording.
[82] See 17:30 through 19:40 of the case conference recording.
[83] See 19:55 through 20:32 of the case conference recording.

adjudicative process, the Appellant was placed on mute a second time so that I could explain what kinds of questions the Appellant was not allowed to ask.[84]

[112] As I detailed above, when I interrupted the Appellant's inappropriate and incorrect questions about his Schedule 13, the Appellant became argumentative, saying in an elevated and aggressive tone, "no, no, no, I am talking to her," "I am speaking to her, please," "can you mute yourself? Because me and her, we're chatting," as well as "I just don't understand it. Like, what is the issue with you? With this?" He continued to speak over me while I asserted control over the call, and indicated that we have a schedule and a timeline to follow. The Appellant's response was, "yeah, and you are interrupting me, you are interrupting us right now, and you are the one supposed to be saving time!"[85]

[113] The Appellant's tone proceeded to get louder and more disrespectful as I attempted to gain control over the call, so he was placed on mute so that I could complete my statements clarifying the evidence the Appellant raised.[86] The Appellant immediately took himself off of mute and continued to interrupt and argue, saying, "let me finish," repeatedly. The Appellant was warned that if I needed to continue to mute him, I would end the case conference.[87]

[114] While clarifying that the CRA and the Commission had both informed the Appellant and his accountant that a Schedule 13 does need to be filed, the Appellant kept interrupting and indicating that he was not listening to my statements by saying things like "let me know when you're ready to listen, yeah?", "I just listen, no problem, but when you finish, let me know," and "can you give me one minute, like, let's go back to the point."[88]

[115] I find that my actions to interrupt and stop the Appellant's inappropriate questions and disruptive behaviour does not constitute bias because they are in line with both the

[84] See 26:19 through 27:05 of the case conference recording.
[85] See 30:43 through 31:33 of the case conference recording.
[86] See 31:34 of the case conference recording.
[87] See 31:44 of the case conference recording.
[88] See 32:12, 32:22, and 33:02 of the case conference recording.

judicial *Ethical Principles* and the *Statement of Principles*. As a Tribunal member, I am expected to assert control over proceedings and "act with appropriate firmness to maintain an atmosphere of dignity, equality, and order."[89] It is my duty to make sure that "proceedings are conducted in an orderly and efficient manner," and to that end, when parties are "challenging or vexatious," my actions are should be "firm, decisive and at the same time respectful to ensure that litigants' rights are protected."[90]

[116] When the Appellant refuses to follow clear directions as to what he is and is not allowed to speak on, or when he is allowed to speak on it, he is demonstrating a lack of respect for the authority of the Tribunal and the adjudicative process it administers. When the Appellant engages in a consistent pattern of interrupting, speaking over, and becoming argumentative, he is demonstrating a lack of respect for the participants and creating a hostile environment that inhibits dignity, order, and equality.

[117] The Appellant has argued that he has a right to be heard, which he does, but he also has a responsibility to allow other to be heard as well. The Appellant has argued that he has a right to respect, which he does, but he also has a responsibility to respect others and the adjudicative process. When he fails to meet his obligations to respect and hear others, he cannot then claim bias when I, as the decision-maker, enforce basic rules.

[118] The Courts have long established that decision-makers have the right to control all proceedings and intervene when parties or participants fail to follow the rules. We are not "a mere observer who must sit by passively allowing counsel to conduct the proceedings in any manner they choose."[91]

[119] The Courts have stressed that it is not simply the right of a decision-maker to control proceedings, it is our duty and obligation. We **must** prevent proceedings from "being unnecessarily protracted by questions directed to irrelevant matters." We have the authority to curtail questions and arguments that are irrelevant, repetitive, or

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[89] See Section 4.B.3 of *Canadian Judicial Council*, Ethical Principles for Judges, 2021.
[90] See Section 5.A.7 of *Canadian Judicial Council*, Ethical Principles for Judges, 2021.
[91] See *The Queen v Snow*, 2004 ONCA 34547, at para 24.

longwinded, and these interventions do not undermine the fairness of a hearing. People are “entitled to a fair trial, not an endless one.”[92]

[120] The Supreme Court of Canada has established that decision-makers have the power to control to control the process of their hearings to ensure that they proceed in an effective and orderly fashion. This serves three interrelated purposes: ensuring fairness, effectiveness, and efficiency. Decision-makers may intervene to manage the conduct of their proceedings in many ways, including restricting unduly repetitive, rambling, argumentative, misleading, or irrelevant statements and questions.[93] The Supreme Court has declared this duty to establish and maintain order as paramount to the certainty and integrity of the judicial process.”[94]

[121] To the point as to whether keeping the Appellant on topic and limiting his questions when they became repetitive was evidence of bias, the Federal Court of Appeal has said that, “encouraging the appellant to adduce relevant evidence and get to the point if there was a point to be made” was “an instance of good trial management, not bias.”[95]

[122] When I interceded on the Appellant’s inappropriate and repetitive tax questions in the case conference, that too was good hearing management, not bias. The Supreme Court has said that, “we now not only accept that a judge may intervene in the adversarial debate, but also believe that it is sometimes essential for him to do so for justice in fact to be done. Thus, a judge may, and sometimes must, ask witnesses questions, interrupt them in their testimony and if necessary, call them to order.”[96]

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[92] See *R v Ivall,* 2018 ONCA 1026 at paras 166-176; see, also *R v Favel,* 2024 ABCA 243, at paras 33-34; *The Queen v Loveman*, 1992 ONCA 2830, at para 7; and
[93] See *The Queen v Samaniego*, 2022 SCC 9, paras 20-22.
[94] See *Korponay v Attorney General of Canada,* 1982 1 SCR 41, at para 48.
[95] See *Hennessey v Canada*, 2016 FCA 180, at para 18. See, also, *Fisher v Health Professions Appeal and Review Board*, 2023 ONSC 6209 at para 23: “there is nothing inappropriate about the Vice-Chair asking him to move to another area when she understood his submissions on an issue. Mr. Fisher has not demonstrated that the Vice-Chair exercised her discretion in a way that was inconsistent with the principles of procedural fairness.”
[96] See *Brouillard Also Known as Chatel v The Queen,* 1985 1 SCR 39 at para 44. See, also: *The Queen v Schmaltz*, 2015 ABCA 4, at para 19: “The trial judge may intervene in certain instances, including to clarify an unclear answer, to resolve misunderstanding of the evidence, or to correct inappropriate conduct by counsel or witnesses.”

[123] So, by preventing the Appellant from asking the Commission irrelevant and repetitive questions, I was appropriately using my hearing management powers to maintain efficiency and fairness. When I placed the Appellant on mute for being argumentative and disruptive, I was appropriately using my hearing management powers to maintain order, efficiency and fairness.

[124] The Courts have repeatedly confirmed that limiting a party's ability to speak during proceedings is not evidence of bias or unfairness when that party abuses the process or refuses to behave appropriately. The Courts have even gone so far as to support barring vexatious and abusive parties from participating in proceedings all together for the sake of maintaining the integrity of the process, even when the abuse and disrespect was directed at the members of the Court. To allow such inappropriate behaviour "would bring the administration of justice into disrepute."[97]

[125] The Quebec Court of Appeal firmly established, in *Fabrikant v the Queen,* that limiting parties from continuing on in an inappropriate manner does not create a lack of fairness, when by their own actions, they refuse to exercise their rights in a reasonable manner:

> *The Appellant, in short, was hardly deprived of his right to make full answer and defence. He simply declined as I mentioned earlier, to exercise it in a reasonable manner…In conducting himself as he did, the appellant has no one to blame but himself for the foreclosure ordered by the trial judge. To permit the appellant to continue would have made a mockery of the trial process.*
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> *When I think of how scrupulous courts are in their efforts to maintain the integrity of the process and to assure fairness at trial, it is difficult to understand why one would deprive himself of the fundamental guaranties which are protected by our Constitution and choose instead to seek to disrupt, abuse and discredit the very process that is there to protect his rights. That is what the appellant did and, in so doing, he himself was the sole cause of the trial judge's decision to terminate his right to call further witnesses in defence.*[98]

[126] In a similar set of cases to this one, called *Nourhaghighi*, the Courts found that there were no grounds for bias or recusal when the party was in contempt through disrespectful behaviour and a refusal to follow direction. The Federal Court highlighted in its third decision on bias that a party cannot and "does not run the Court system, does

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[97] See *Prefontaine v The Queen*, 2004 TCC 775.
[98] See *Fabrikant v the Queen,* 1995 QCCA 5384, pgs 45-46.

not dictate what matters will be heard and by whom, and, most assuredly, does not run this Court."[99]

[127] Just like the Appellant, Mr. Nourhaghighi had a belief that he was engaged in a noble effort not only to protect his own rights, but that he was subject to a conspiracy to bring him harm.[100] Just like the Appellant, Mr. Nourhaghighi was "disrespectful to the Court as he refused to stop talking in the face of questions from the Court," and he made statements that were "entirely incorrect and… an effort by Mr. Nourhaghighi to mislead this Court." When the Court did not tolerate this inappropriate behaviour, Mr. Nourhaghighi "launched into a specious attack on the Court alleging bias and conflict of interest against the Court," claimed that the judges had "injured his dignity," and demanded their recusal, just like the Appellant has done of me in this case.[101]

[128] Mr. Nourhaghighi's behaviour mirrors that of the Appellant's, as his "conduct was nothing short of contemptuous and disrespectful in light of the fact that he refused to stop talking and respond properly to the directions of the Court. Mr. Nourhaghighi's conduct brings the administration of justice into disrepute when he endeavours to direct the Court process without regard to courtroom decorum and the directions of the Court."[102]

[129] And, just like the Federal Court found no basis to support a finding of bias or to justify recusal in *Nourhaghighi*,[103] I too find no grounds to support the Appellant's argument that I am biased and should recuse myself from hearing the rest of his case.

[130] The appellant has not provided any evidence to displace the presumption of impartiality or to substantiate any reasonable apprehension of bias or suggestion that I have not treated him fairly. The fact that the Appellant is unhappy that he was not

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[99] See *Canada v Nourhaghighi,* 2014 FC 254 at para 17.
[100] See *Canada v Nourhaghighi,* 2014 FC 254 at para 4.
[101] See *Law Society of Upper Canada v Nourhaghighi*, 2013 FC 89 at paras 4, 13-15, and 17; and *Canada v Nourhaghighi*, 2014 FC 254 at para 14.
[102] See *Law Society of Upper Canada v Nourhaghighi*, 2013 FC 89 at para 10.
[103] See *Law Society of Upper Canada v Nourhaghighi*, 2013 FC 89 at para 12 and *The Queen v Nourhaghighi*, 2013 FC T-2285-12.

permitted to run a case conference is insufficient for a finding of a reasonable apprehension of bias which would result in my disqualification.

[131] A reasonably informed person, viewing the matter realistically and practically, would not conclude that I am biased or that I would not hear the present appeal fairly and with an open mind. There is no evidence of bias, and "it would be disruptive to the legal process if unhappy litigants were permitted to 'judge-shop' until they found one who agreed with them."[104]

Conclusion

[132] I am not removing myself from the file because the Appellant hasn't proven that there is a reasonable apprehension of bias.

Ambrosia Varaschin
Member, General Division – Employment Insurance

[104] See Pereira v. Dexterra Group Inc., 2023 BCCA 201 at para 21. See, also *De Cotiis v De Cotiis*, 2004 BCSC 117 at paras 10–11; *R v Anderson*, 2017 BCCA 154 at para 16; and *Liszkay v Robinson*, 2003 BCCA 506 at para 53.