



Citation: *CK v Canada Employment Insurance Commission*, 2024 SST 1124

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: C. K.

Respondent: Canada Employment Insurance Commission
Representative: Jessica Earles

Decision under appeal: General Division decision dated November 2, 2023
(GE-23-2412)

Tribunal member: Melanie Petrunia

Type of hearing: In person

Hearing date: September 18, 2024

Hearing participants: Appellant
Respondent's representative

Decision date: September 20, 2024

File number: AD-24-293

Decision

[1] The appeal is allowed. I am sending the matter back to the General Division for a new hearing.

Overview

[2] The Appellant, C. K. (Claimant), stopped working for her employer for medical reasons in November 2022. She officially quit on June 8, 2023. In May 2023, she applied for Employment Insurance (EI) regular benefits.

[3] The Respondent, the Canada Employment Insurance Commission (Commission), decided that the Claimant voluntarily left her job without just cause, so it could not pay her benefits. The Claimant asked for a reconsideration and the Commission maintained its decision. The Claimant appealed to the Tribunal's General Division.

[4] The General Division dismissed the Claimant's appeal. The Claimant did not attend the hearing. The General Division decided that the Claimant had reasonable alternatives to leaving her job and was disqualified from receiving benefits.

[5] The Claimant argues that the General Division made a number of errors and says that she did not know that the hearing had been scheduled. The Commission agrees that the General Division failed to provide a fair process.

The parties agree on the outcome of the appeal

[6] The Claimant and the Commission agree that the General Division did not provide a fair process when it proceeded with the decision after the Claimant failed to attend the hearing.

[7] The parties also agree that the appropriate remedy is to return the matter to the General Division for a new hearing.

I accept the proposed outcome

[8] I agree with the parties that the General Division did not provide a fair process. In its decision, the General Division notes that the Claimant did not attend the hearing. It says that it can proceed without the Claimant if it is satisfied that she received the Notice of Hearing.¹

[9] The General Division was satisfied that the Claimant received the Notice of Hearing because it was sent to her by email on October 12, 2023. It noted that all previous correspondence had been by email and the Claimant submitted documents on October 16, by email.²

[10] It is true that the Claimant provided her email address with her Notice of Appeal and gave the Tribunal permission to communicate with her by email. However, there was subsequent communication from the Claimant in which she asked for notice of the hearing to be sent by mail.

[11] The Claimant wrote to the Tribunal on September 14, 2023 stating, “email me plus phone and send a letter as the date and time of the Tribunal.”³ Then, on October 9, 2023, the Claimant wrote to the Tribunal and said, “I emailed that the tribunal snail mail me for a tribunal date and this was not done.”⁴

[12] The General Division relied on the fact that the Claimant communicated with the Tribunal by email on October 16, after the Notice of Hearing was sent. However, the email on that date from the Claimant states:

Kindly let me know of the tribunal time, date and in person. I need to have a very firm and definite confirmation instead of more delays upon more delays which then is..... in terms of my needs.

¹ General Division decision at para 7.

² General Division decision at para 7.

³ GD6A

⁴ GD8

This has been ongoing since August. I submitted documents in the time period and I asked I be notified by snail mail, firstly of the tribunal date.⁵

[13] The Claimant confirmed that she did not receive the Notice of Hearing. The Commission agrees that the Claimant may not have been aware of the date of the hearing. For this reason, the General Division failed to provide a fair process when it proceeded with the decision after the Claimant did not attend the hearing.

[14] I agree with the parties that the appropriate remedy is to return the matter to the General Division for a new hearing. The Claimant has not had an opportunity to fully present her case and the record is not complete.

Conclusion

[15] The appeal is allowed. The General Division failed to provide a fair process. I am returning the matter to the General Division for a new hearing.

Melanie Petrunia
Member, Appeal Division

⁵ GD9-1