



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

**Citation:** *R. R. v. Canada Employment Insurance Commission*, 2016 SSTGDEI 17

**Date:** February 4, 2016

**File number:** GE-15-3055

**GENERAL DIVISION - Employment Insurance Section**

**Between:**

**R. R.**

**Appellant**

and

**Canada Employment Insurance Commission**

**Respondent**

**Decision by:** Richard Sterne, Member, General Division - Employment Insurance Section

**Heard by Teleconference on December 10, 2015**

## **REASONS AND DECISION**

### **PERSONS IN ATTENDANCE**

The Appellant, R. R., attended the hearing by telephone.

### **INTRODUCTION**

[1] The Appellant worked for the Avon Maitland District School Board (employer1) until June 1, 2015.

[2] The Appellant worked for the Waterloo Region District School Board (employer2) until June 12, 2015.

[3] On June 23, 2015, the Appellant applied for employment insurance regular benefits (EI regular benefits).

[4] On July 16, 2015, the Canada Employment Insurance Commission (Respondent) advised the Appellant that they were unable to pay him the EI regular benefits that he had requested because he only had 671 hours of insurable employment between June 15, 2014 and June 13, 2015, however he required 700 hours of insurable employment to qualify for EI benefits.

[5] On July 26, 2015, the Appellant sent the Respondent a letter to request that their July 16, 2015 decision be reconsidered, which was denied on August 26, 2015.

[6] The hearing was held by Teleconference for the following reasons:

- a) The complexity of the issue(s) under appeal.
- b) The fact that the credibility is not anticipated to be a prevailing issue.
- c) The fact that the appellant will be the only party in attendance.
- d) The information in the file, including the need for additional information.
- e) The form of hearing respects the requirement under the Social Security Tribunal Regulations to proceed as informally and quickly as circumstances, fairness and natural justice permit.

## ISSUE

[7] Did the Appellant have enough insurable hours of work during his qualifying period to be eligible to receive EI regular benefits?

## THE LAW

### [8] Subsection 7(1) of the Act:

(1) Unemployment benefits are payable as provided in this Part to an insured person who qualifies to receive them.

### [9] Subsection 7(2) of the Act:

(2) An insured person, other than a new entrant or a re-entrant to the labour force, qualifies if the person

(a) has had an interruption of earnings from employment; and

(b) has had during their qualifying period at least the number of hours of insurable employment set out in the following table in relation to the regional rate of unemployment that applies to the person:

**TABLE**

| Regional Rate of Unemployment       | Required Number of Hours of Insurable Employment in Qualifying Period |
|-------------------------------------|---|
| 6% and under                        | 700   |
| more than 6% but not more than 7%   | 665   |
| more than 7% but not more than 8%   | 630   |
| more than 8% but not more than 9%   | 595   |
| more than 9% but not more than 10%  | 560   |
| more than 10% but not more than 11% | 525   |
| more than 11% but not more than 12% | 490   |
| more than 12% but not more than 13% | 455   |
| more than 13%                       | 420   |

**[10] Subsection 7(4) of the Act:**

(4) An insured person is a new entrant or re-entrant to the labour force if, during the last 52 weeks before their qualifying period, the person has had fewer than 490

- (a) hours of insurable employment;
- (b) hours for which benefits have been paid or were payable to the person, calculated on the basis of 35 hours for each week of benefits;
- (c) prescribed hours that relate to employment in the labour force; or
- (d) hours comprised of any combination of those hours.

**[11] Subsection 8(1) of the Act:**

(1) Subject to subsections (2) to (7), the qualifying period of an insured person is the shorter of

- (a) the 52-week period immediately before the beginning of a benefit period under subsection 10(1), and
- (b) the period that begins on the first day of an immediately preceding benefit period and ends with the end of the week before the beginning of a benefit period under subsection 10(1).

**[12] Subsection 23.1(2) of the Act:**

(2) Notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant if a medical doctor has issued a certificate stating that

- (a) a family member of the claimant has a serious medical condition with a significant risk of death within 26 weeks

- (i) from the day the certificate is issued,
  - (ii) in the case of a claim that is made before the day the certificate is issued, from the day from which the medical doctor certifies the family member's medical condition, or
  - (iii) in the case of a claim that is regarded to have been made on an earlier day under subsection 10(4) or (5), from that earlier day; and
- (b) the family member requires the care or support of one or more other family members.

## **EVIDENCE**

[13] The Appellant worked for employer1 from October 22, 2014 to June 1, 2015.

[14] The Appellant worked for employer2 from October 14, 2014 to June 12, 2015.

[15] On January 20, 2015, employer2 issued the Appellant's record of employment (ROE) (W37238986) for the period from October 14, 2014 to December 13, 2014, and indicated the reason for issuing the ROE was code A, Shortage of Work/End of Contract. The ROE indicated the total insurable hours worked was 152.

[16] On April 1, 2015, employer2 issued the Appellant's ROE (W38220512) for the period from February 26, 2015 to March 13, 2015, and indicated the reason for issuing the ROE was code A, Shortage of Work/End of Contract. The ROE indicated the total insurable hours worked was 56.

[17] On May 27, 2015, the Appellant's wife's Doctor wrote a letter explaining that his patient, the Appellant's wife, had become totally disabled on Monday April 20, 2015. He stated that the Appellant's wife could return to regular work on Tuesday May 19, 2014.

[18] On June 23, 2015, the Appellant applied for EI regular benefits.

[19] On July 8, 2015, employer1 issued the Appellant's ROE (W39807902) for the period from October 22, 2014 to June 1, 2015, and indicated the reason for issuing the ROE was code

A, Shortage of Work/End of Contract. The ROE indicated the total insurable hours worked was 371.

[20] On July 15, 2015, employer2 issued the Appellant's ROE (W40040637) for the period from March 23, 2015 to June 12, 2015, and indicated the reason for issuing the ROE was code A, Shortage of Work/End of Contract. The ROE indicated the total insurable hours worked was 92.

[21] On July 16, 2015, the Respondent advised the Appellant that they were unable to pay him the EI regular benefits that he had requested because he only had 671 hours of insurable employment between June 15, 2014 and June 13, 2015, however he required 700 hours of insurable employment to qualify for EI benefits.

[22] On July 26, 2015, the Appellant sent the Respondent a letter to request that their July 16, 2015 decision be reconsidered.

[23] On August 26, 2015, the Appellant told the Respondent that he understood that he only had 671 hours of insurable employment in his qualifying period, whereas he required 700 hours to establish his claim. The Appellant stated that his wife had been sick, and had surgery. He was required to be at home to provide care for her, which required him to miss work.

[24] On August 26, 2015, the Respondent advised the Appellant that they had not changed their July 26, 2015 decision.

[25] On January 4, 2016, the Appellant submitted a letter from the Appellant's wife's Doctor, dated December 14, 2015, confirming that the Appellant was his wife's Compassionate Care provider until at least June 15, 2015.

[26] On January 6, 2016, the Respondent responded to the Appellant's January 4, 2016, submission stating that the issue of Compassionate Care was not before the Tribunal, as no decision has been made by the Respondent on this issue.

## **SUBMISSIONS**

[27] The Appellant submitted that:

- a. he had only 671 hours of insurable employment up to June 13, 2015, whereas he required 700 hours.
- b. he was forced to not accept teaching jobs during this period in order to attend his wife's medical needs.
- c. his wife's needs included home care (cooking, feeding, changing dressings, obtaining knee braces, a walker, and crutches), and driving to Doctor's appointments.
- d. he was unable to work or had to cancel work, on the following 8 days: April 20, April 23, April 27, April 29, May 1, May 4, May 7, and May 14, 2015. These eight days would have provided 64 more hours of insurable employment.

[28] The Respondent submitted that:

- a. the Appellant had failed to qualify to receive EI regular benefits because he required 700 hours of insurable employment in the period between June 15, 2014 and June 13, 2015 whereas he had accumulated only 671 hours.
- b. the issue of Compassionate Care is not before the Tribunal, as no decision has been made by the Respondent on this issue.

## **ANALYSIS**

[29] During the hearing, the Appellant stated that his wife had fallen and broken her leg. He said that he had to stop working in order to care for his wife while she recovered from her accident. He said that he had to drive her to and from work, when she returned to work. The Appellant stated that he was unable to work or had to cancel work, on the following 8 days: April 20, April 23, April 27, April 29, May 1, May 4, May 7, and May 14, 2015. He said that had he been able to work these days for 8 hours/day, that these eight days would have provided 64 more hours of insurable employment, which would have given him 735 hours.

[30] The Appellant stated that he would have applied for Compassionate Care EI benefits if he had realized at the time he applied, that he didn't have the required 700 hours for EI regular benefits, whereas Compassionate Care EI benefits only required 600 hours.

[31] The Tribunal found the Claimant to be credible, as he was honest and forthright in his testimony and answering questions under oath.

[32] The Tribunal finds that the Appellant required 700 hours of insurable employment in order to be eligible to receive EI regular benefits, based on his regional rate of unemployment, pursuant to subsection 7(2) of the Act.

[33] The Tribunal finds that the Appellant only had 671 hours of insurable employment during his qualifying period; therefore the Appellant was not eligible to receive EI regular benefits.

[34] The Appellant argued that if he was not eligible for EI regular benefits, he should have been eligible to receive Compassionate Care EI benefits. The Respondent argued that the issue of the Appellant's eligibility to receive Compassionate Care EI benefits is not part of this appeal, since the Respondent has not made a decision regarding Compassionate Care EI benefits.

[35] The Tribunal finds that the reconsideration decision that is under appeal concerned the Appellant establishing that he had enough insurable hours of work to be eligible for EI regular benefits. The Tribunal finds that the issue of the Appellant's eligibility to receive Compassionate Care EI benefits is not an issue of this appeal. The Tribunal suggests that the Appellant apply for Compassionate Care EI benefits so the Respondent can make a decision on this issue.

## **CONCLUSION**

[36] The appeal is dismissed.

Richard Sterne  
Member, General Division - Employment Insurance Section