



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. H. v. Canada Employment Insurance Commission*, 2016 SSTGDEI 71

Tribunal File Number: GE-15-3423

BETWEEN:

M. H.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Grant Smith

HEARD ON: May 30, 2016

DATE OF DECISION: June 1, 2016

REASONS AND DECISION

PERSONS IN ATTENDANCE

The Appellant, M. H., did not join the teleconference hearing.

INTRODUCTION

[1] The Appellant applied for employment insurance benefits (EI benefits) on June 30, 2013. The Respondent denied the application at the initial level and, on October 26, 2015, denied the application at the reconsideration level. The Appellant appealed to the General Division of the Social Security Tribunal (Tribunal).

[2] The hearing was held by Teleconference for the following reasons: the complexity of the issue(s) under appeal, the information in the file, including the need for additional information. 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(S)

[3] Does the Appellant have sufficient hours of insured employment to qualify for employment insurance benefits pursuant to section 7 of the *Employment Insurance Act* (Act)?

THE LAW

[4] Subsection 7(3) of the Act:

(3) An insured person who is a new entrant or a re-entrant to the labour force qualifies to receive benefit if the person

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

(b) has had 910 or more hours of insurable employment in their qualifying period.

[5] 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.

[6] 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).

EVIDENCE

[7] The Appellant failed to appear at the hearing. At the time scheduled for the hearing an agent of the Tribunal called the appellant's home telephone number. The agent left a voice message for the Appellant to call the Tribunal to provide reasons as to why she missed the hearing. The Appellant did not respond by the date of this writing.

[8] The Appellant was sent a Notice of Hearing. It was delivered to her home address by Canada Post on February 3, 2016 and signed for by M. H.

[9] The Appellant had most recently worked for Peace Wapiti School Division as a casual worker and bus driver up until August 25, 2013.

[10] The Appellant filed a claim for employment insurance benefits on June 30, 2015.

[11] The qualifying period was determined, pursuant to section 8 of the Act, to be the 52-week period immediately preceding her application; the period from June 29, 2014 to June 27, 2015.

[12] In her qualifying period the Appellant accumulated 0 hours of insured employment.

[13] In the 52-week period preceding the qualifying period, the Appellant had 114 hours of Labour Force Attachment (LFA) hours from July 7, 2013 to June 28, 2014.

[14] Therefore, the Appellant was determined, pursuant to subsection 7(4) of the Act, to be a new entrant or re-entrant because she did not have at least 490 of LFA in the 52-week period preceding the qualifying period.

[15] As a result, the Commission determined the Appellant required 910 hours of insured employment, in her qualifying period, to qualify for EI benefits pursuant to subsection 7(3)(b) of the Act.

[16] As the Appellant had 0 hours of insured employment in her qualifying period the Commission concluded she cannot demonstrate she qualifies to receive EI benefits.

[17] The issue of a denial of an implied antedate request was not included in that review and the Commission determined that it should have been. That review decision has subsequently been issued to the Appellant under separate cover. Therefore, it is not currently an issue presented in this appeal docket.

SUBMISSIONS

[18] The Appellant submitted that she had worked 1103 hours from August 2012 to August 2013. The Appellant does not dispute the fact she has no insured hours since that time.

[19] The Respondent submitted that the Appellant has failed to demonstrate she has the requisite number of insured hours of employment to qualify to receive EI benefits.

ANALYSIS

[20] Where a party fails to appear at a hearing, section 12 of the Social Security Tribunal Regulations is the authority to proceed in the absence of the party, if the Tribunal is satisfied that the party received notice of the hearing.

[21] The Tribunal is satisfied the Appellant was duly notified of the date and time of the hearing with the specific received instructions on how to join the teleconference in a Notice of Hearing dated January 26, 2016. The Notice of Hearing was delivered to her home address by Canada Post on February 3, 2016 and signed for by M. H.

[22] The Appellant had a separation from employment on August 25, 2013.

[23] She delayed applying for regular EI benefits until June 30, 2015. She admitted to the Commission that she has accumulated 0 hours of insured employment since she separated from her employment.

[24] The Tribunal finds, pursuant to paragraph 8(1)(a) of the Act, the Commission correctly determined the Appellant's qualifying period to be the period from June 29, 2014 to June 27, 2015; the 52-week period immediately preceding her application.

[25] The Tribunal finds the Commission correctly determined that the Appellant was a new entrant or re-entrant because in accordance with subsection 7(4) of the Act she did not have at least 490 hours of labour force attachment in the 52 weeks preceding the qualifying period. Therefore, she was correctly considered to be a new entrant or re-entrant. As a result she required 910 hours of insured employment in her qualifying period.

[26] The Tribunal finds that the Appellant accumulated 0 hours of insured employment in her qualifying period. Therefore, she cannot demonstrate she qualifies to receive benefits.

CONCLUSION

[27] The appeal is dismissed.

Grant Smith
Member, General Division - Employment Insurance Section