



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *M. T. v. Canada Employment Insurance Commission*, 2017 SSTGDEI 42

Tribunal File Number: GE-16-3632

BETWEEN:

**M. T.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

---

**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

---

DECISION BY: Lilian Klein

HEARD ON: February 28, 2017

DATE OF DECISION: March 31, 2017

## REASONS AND DECISION

### PERSONS IN ATTENDANCE

The Appellant

### INTRODUCTION

[1] The Appellant is appealing the reconsideration decision by the Respondent under section 112 of the *Employment Insurance Act* (Act), regarding the weeks of benefits she was entitled to during her benefit period, the determination of her benefit period, and the refusal to antedate her initial claim for benefits.

[2] The Appellant lost her job on September 17, 2015.

[3] She made an initial claim for benefits on January 30, 2016, and a benefit period was established, effective January 24, 2016.

[4] The Respondent determined that she was entitled to 23 weeks of regular benefits, calculated according to the formula in subsection 12(2) of the Act and Schedule 1.

[5] The Appellant filed a reconsideration request on August 2, 2016.

[6] The issue of an antedate was discussed during a subsequent telephone interview with the Appellant on September 10, 2016.

[7] By correspondence dated September 10, 2016, the Respondent informed the Appellant of the reconsideration decision: the original decisions on her file were maintained regarding the number of weeks of entitlement and the determination of her benefit period, and the antedate was denied.

[8] The Appellant's appeal was received by the Tribunal on September 27, 2016.

[9] The hearing on February 28, 2017 was held by teleconference for the following reasons:

- a) The fact that the Appellant would be the only party in attendance.

- b) The information in the file, including the need for additional information.
- c) The form of hearing respects the requirement under the *Social Security Tribunal Regulations* (Regulations) to proceed as informally and quickly as circumstances, fairness and natural justice permit.

## **ISSUES**

[10] The Tribunal must make determinations on the following issues:

- a) the number of weeks of benefit entitlement, pursuant to subsection 12(2) of the Act;
- b) the determination of the benefit period, pursuant to section 10 of the Act;
- c) whether the Appellant was entitled to an antedate to her initial claim, pursuant to subsection 10(4) of the Act.

## **EVIDENCE**

[11] The Appellant was laid off from her job on September 17, 2015, and was eligible for severance, pay in lieu of notice and vacation pay at the time of her separation (GD3-15).

[12] On November 23, 2015, she left for an extended stay in China. She stated that she attempted to file her initial claim from there electronically that same month, but was prevented from doing so by technical difficulties. She also said that when she contacted Service Canada by long distance telephone, she was not informed that she needed to file right away, even while receiving severance, but she was told she could apply when she came home, and that she could not receive benefits while outside Canada. She returned to this country on July 15, 2016. (GD3-25 to GD3-26, GD3-27 to GD3-28).

[13] She made an initial claim for benefits on January 30, 2016 (GD3-3 to GD3-14), and a benefit period was established, effective January 24, 2016 (GD4-1).

[14] According to her Record of Employment (ROE), the Appellant had 1,954 insurable hours in the 52 weeks leading up to her last day of work, September 16, 2015 (GD3-15), but she

had 1,255 insurable hours in her benefit period, that is, the 52 weeks leading up the date her claim was established, January 24, 2016 (GD3-27).

[15] The Appellant lived in Toronto, where the rate of unemployment was 7% at the time her claim was established (GD3-17 to GD3-19).

[16] The Respondent determined that she was entitled to 23 weeks of benefits, based on her 1,255 insurable hours and a 7% unemployment rate (GD4-1). The benefit period provided a 52-week window to collect these benefits, from January 24, 2016 to January 28, 2017 (GD4-4).

[17] On August 2, 2016, the Appellant filed a reconsideration request, stating that she should receive “the full entitlement of one year” of benefits after working full-time in her job for five years (GD3-25 to GD3-26). She wanted the maximum number of insurable hours to be taken into account when calculating her benefits.

[18] In a telephone interview during the reconsideration process, the Respondent brought up the issue of antedating with the Appellant, and told her that an antedate would not be granted, since she had not shown “good cause” for her delay in making her initial claim (GD3-27).

[19] The Respondent conducted a mock exercise to demonstrate that if an antedate was allowed, it would not improve the Appellant’s position. It concluded that the situation which prevented her from collecting her full entitlement of benefit weeks was her absence from Canada for 34 weeks out of her 52-week benefit period, since she could not have received benefits while outside the country (GD3-27 to GD3-28).

[20] By correspondence dated September 10, 2016, the Appellant was informed of the reconsideration decision, which maintained the Respondent’s prior determination on the number of weeks of benefits, the benefit period, and the denial of an antedate to her claim (GD3-29 to GD3-30).

[21] In her appeal dated September 16, 2016, received by the Tribunal on September 27, 2016, the Appellant stated she was appealing because she had been given conflicting information by the Respondent about why she could not receive her full benefit entitlement.

First she was told it was because she had been out of the country, and later, that she had waited too long to make her initial claim.

[22] She further argued that the Respondent had not reviewed her file thoroughly on reconsideration, and was shocked that the possibility of an antedate—which she had never heard of—was brought up and explained, but then immediately dismissed.

## **SUBMISSIONS**

[23] The Appellant submitted that

- a) she had worked full-time for five years, and therefore should have been entitled to more weeks of benefits, based on her insurable hours immediately before her job loss;
- b) she was not familiar with the law, and did not know that she needed to make her initial claim promptly, even while receiving severance;
- c) she had difficulty connecting with Service Canada while out of the country, to make enquiries by phone, and to file her claim electronically;
- d) she received conflicting advice from the Respondent, while in China, and on her return;
- e) she did not feel that her reasons for a reconsideration request were properly reviewed and taken into account, and she felt belittled by how she was treated.

[24] The Respondent submitted that

- a) the Appellant's benefit entitlement of 23 weeks was correctly calculated, using the formula set out in subsection 12(2) of the Act and Schedule 1, based on 1,255 insurable hours in her qualifying period and an unemployment rate of 7%;
- b) her benefit period was correctly determined, and there was nothing in her circumstances that would warrant an extension beyond this 52-week period, pursuant to section 10 of the Act;

- c) She was not entitled to an antedate, because she did not show “good cause” for her delay in filing, since she did not take steps to find out about her rights and obligations, as a “reasonable person” would have done.

## **ANALYSIS**

[25] The relevant legislative provisions are reproduced in the Annex to this decision.

[26] While considering the Appellant’s position from different angles during the reconsideration interview, the Respondent brought up the negative impact of her 34-week absence during her benefit period, concluding that if the antedate had been granted, no benefits could be paid while she was away, so her overall position would not have been improved.

[27] However, this was a purely hypothetical exercise since her entitlement to benefits could only be determined if she had been granted an antedate. Although her absence from Canada is discussed in the Respondent’s submission in a contextual fashion, and was broached with the Appellant during the reconsideration interview, it does not form part of this appeal.

[28] The Tribunal therefore only has the jurisdiction to make findings on the number of weeks of benefits, the determination of the benefit period, and the antedate.

### **Weeks of Entitlement**

[29] According to the evidence on the docket, the Appellant had 1,255 insurable hours in her qualifying period. She lived in Toronto where the rate of unemployment was 7% at the time her claim was established. While she assumed she would get a full year of benefits, she was only entitled to 23 weeks, according to the calculation formula set down in subsection 12(2) of the Act and Schedule 1, and applied by the Respondent.

[30] She argued that her benefit entitlement should reflect more of the hours she worked before she lost her job. However, based on the date her initial claim was established following her late filing, her qualifying period was set, pursuant to subsection 8(1) of the Act, as the 52-week period leading up to the date her claim was established. This is why her benefits were calculated based on her 1,255 insurable hours during that qualifying period, rather than on the 1,954 hours recorded on her ROE in the 52 weeks leading up to her job loss.

[31] The Appellant is not disputing that she had 1,255 insurable hours in her qualifying period, but believes, as a matter of principle, that hours before this period should be taken into account as well, given her five years of service to her employer. However, there is no evidence of circumstances that would warrant a qualifying period extension under section 8 of the Act, in order to encompass any additional hours.

[32] Based on these factors, the Tribunal finds that the Respondent correctly applied the formula set out in subsection 12(2) of the Act and Schedule 1, in determining that her benefit entitlement was 23 weeks.

### **The Benefit Period**

[33] As per subsection 10 (1) of the Act, a benefit period begins on the later of (a) the Sunday of the week in which the interruption of earnings occurs, and (b) the Sunday of the week in which the initial claim for benefits is made. The Appellant's benefit period started on January 24, 2016, the Sunday of the week in which she made her initial claim, i.e. the later of the two events.

[34] Her qualifying period was therefore the 52 weeks leading up to the date her claim was established, on January 24, 2016, while her benefit period ran from January 24, 2016 to January 28, 2017, giving her a 52-week window to collect her 23 weeks of benefits.

[35] Subsection 10(2) of the Act limits the total duration of the benefit period to 52 weeks, and the end date is therefore fixed. The Tribunal agrees with the Respondent that, taking all of the Appellant's circumstances into account, there is no evidence that she qualified for an extension of her benefit period beyond 52 weeks, under any of the specific exemptions provided for in section 10 of the Act (see Annex, *infra*).

[36] The Tribunal therefore finds that the Respondent correctly determined the benefit period.

### **Antedate**

[37] The Tribunal has noted that the Appellant never formally requested an antedate. The matter was first mentioned to her by the Respondent during the reconsideration interview on

September 10, 2016. At the hearing, as on her appeal form, she stated that she had never heard of an antedate before; it was explained to her, but she was immediately told she did not qualify, since she had not shown “good cause” for the delay in making her initial claim (GD3-27).

[38] If an antedate were granted, her initial claim for benefits would be considered as having been made on an earlier date. This would have the potential to increase the number of weeks of benefits, since her entitlement would be calculated based on her total number of insurable hours in the year prior to her job loss. The Appellant did not understand why her reasons for the delay in filing her claim—which she considered sound—did not constitute “good cause.”

[39] The antedate denial affects determination of the other issues discussed above that relate to her benefit entitlement. It was part of the reconsideration decision, even though the Appellant did not formally request it. The Tribunal therefore has jurisdiction to consider the antedate as part of this appeal.

[40] As set down in subsection 10(4) of the Act, to qualify for an antedate to her claim, the Appellant had to first show that she was qualified to receive the benefits on the earlier date. The Tribunal finds that she fulfilled this first condition on eligibility. However, she also had to demonstrate that she met the second condition, the “good cause” test, throughout the period of the delay, which began on the day she was qualified to make her initial claim, and ended on the day when that claim was made.

[41] The test for “good cause,” as set down in *Attorney General of Canada v. Albrecht*, A-172-85, has been affirmed in many later decisions, such as *Attorney General of Canada v. Burke*, 2012 FCA 139; *Attorney General of Canada v. Scott*, 2008 FCA 145; *Attorney General of Canada v. Beaudin*, 2005 FCA 123; and *Shebib v. Attorney General of Canada*, 2003 FCA 88.

[42] The Albrecht test is whether, throughout the period of the delay, a claimant can show that he did what a “reasonable person in his situation would have done to satisfy himself as to his rights and obligations under the Act.” See also *Attorney General of Canada v. Ehman*, A-360-95; *Beaudin, supra*; *Shebib, supra*.



[43] The case law qualifies this test with the caveat that if a claimant did not act like a “reasonable and prudent person,” then consideration should also be given to whether there were any “exceptional circumstances” (*Attorney General of Canada v. Caron*, [1986] 69 N.R. 132 (F.C.A.); *Attorney General of Canada v. Smith*, A-549-92).

[44] As stated in *Scott, supra*: “The obligation and duty to promptly file a claim is seen as very demanding and strict. This is why the ‘good cause for delay’ exception is cautiously applied.” As determined in *Carron, supra*, “the circumstances would have to be very exceptional.”

[45] The rationale for requiring timely filing of claims is discussed extensively in the case law. We find in *Beaudin, supra*, as reaffirmed in *Burke, supra*:

It is worth noting that subsection 10(4) of the Act is not the product of a mere legislative whim. It contains a policy, in the form of a requirement, which is instrumental in the sound and efficient administration of the Act...Antedating the claim for benefits may adversely affect the integrity of the system, in that it gives a claimant a retroactive and unconditional award of benefits, without any possibility of verifying the eligibility criteria during the period of retroactivity.

[46] The chaos that could result from allowing late claims is discussed in CUB 54429:

To allow any administrative tribunal to set aside the application of clear legislative measures without a clear right to do so in their respective enabling legislation would lead to chaos in the administration of government programs and would be contrary to public order. The law therefore requires that deadlines must be respected. Failure to uphold them could lead to administrative chaos.

[47] On the first issue of whether the Appellant acted like a “reasonable and prudent” person, the Tribunal notes that there is a foundational principle in the jurisprudence, which holds that ignorance of the law does not constitute good cause for failing to comply with a statutory requirement (*Mihm v. Minister of Manpower and Immigration*, [1970] S.C.R. 348; *Pirotte v. Unemployment Insurance Commission et al.* A-108-76). At the same time, ignorance of the law does not preclude a finding of good cause, as long as the claimant can show that he or she acted in a reasonable manner (*Albrecht, supra*).

[48] Ultimately, there is a “duty of care on claimants (*Pirotte, supra*). It is not, therefore, sufficient “simply to rely on [his] good faith and [his] total unfamiliarity with the law.” (See *Attorney General of Canada v. Carry*, 2005 FCA 367; *Albrecht, supra*.)

[49] The Tribunal notes, however, that the Appellant did rest her appeal primarily on ignorance of the law, as well as a misunderstanding of the process for making a claim for benefits while still receiving severance. As noted in *Shebib, supra*, it is possible to accept that a claimant acted “in good faith and with the best of intentions,” but at the same time to find that her reasons do not constitute “good cause” within the meaning of the Act. This is the case with the Tribunal’s findings in this appeal.

[50] Since the Appellant cannot rely on her ignorance of the law to show “good cause” for the delay in her initial claim, she has the onus of proving that she at least took reasonable steps, and in a timely fashion, to discharge her obligations (*Attorney General of Canada v. Innes*, A-108-10; *Carry, supra*). Her eligibility for an antedate hinges on that proof.

[51] However, the Tribunal finds that the reasons she gave for the delay did not demonstrate “good cause,” as explained in *Albrecht, supra*. A “reasonable person” in her situation would not have waited so long before enquiring about her benefits, given that there were so many channels available to her to make these enquiries, by phone, in person, or through the internet.

[52] Taking into account as well the second part of the “good cause” test, the issue of whether there were “exceptional” circumstances to consider, the Tribunal notes that the Appellant reported difficulties in making overseas phone calls once she arrived in China. She argued that these difficulties prevented from her from calling Service Canada to get advice on how to proceed with her claim. She also argued that she received confusing advice during the one call she managed to place successfully, using an internet program on a friend’s cell phone rather than a land line. She said she was told not to apply until she returned to Canada—advice she did not, in any case, follow—and advised that she could not receive benefits while outside the country.

[53] There is no record on file of this conversation to verify what questions she asked and what advice was given. The Appellant did not note down the name of the Service Canada agent

to whom she spoke, and gave testimony based on what she remembers from the call. There is, therefore, no way of determining whether incorrect advice was given, or whether the information given might have been misunderstood.

[54] It is undeniable that the Appellant would have benefitted from a more substantial interaction with Service Canada, preferably in person. It was not wise to rely on just one call over an internet long distance service, which was placed, according to her testimony, from an area where wireless connections were poor. These were not the actions of a “reasonable and prudent” person, and the circumstances she referenced—ongoing technical difficulties while overseas—were not “exceptional.”

[55] The Appellant had to show “good cause” for the entire period of her delay in making her initial claim, but, starting with the period before she left the country, this was not the case. The Tribunal has noted that she did not immediately leave the country once she lost her job. Her departure was more than two months later. It would, therefore, have been prudent for her to have contacted Service Canada before she left, to ask how best to proceed in her situation, especially since she was planning to leave the country for an extended period of time. Instead, she relied on being able to make enquiries from overseas, putting herself in a position where she was dependent on the phone and internet connections of an overseas country.

[56] As for the remainder of the delay, her first two months in China, the Tribunal has taken into consideration her difficulties accessing stable internet connections, which she said prevented her from her making her initial claim for benefits when she tried to do so after arriving on November 23, 2015. However, the Tribunal notes that, despite these difficulties, she was able to file her claim from China on January 30, 2016, once her severance ended, so technical glitches cannot be considered an exceptional circumstance that would explain her delay in applying while overseas, throughout this two-month period.

[57] The Tribunal finds her assertion that she tried to apply in November 2015, inconsistent with her other statements that she did not make her initial claim until January 30, 2016, because she thought she was not eligible until she had exhausted her severance. However, the Tribunal does not assign significant weight to this minor inconsistency. The Tribunal found her testimony at the hearing to be forthright and credible. Ultimately, she waited until her severance

ended before filing her claim. On a balance of probabilities, therefore, it is reasonable to conclude that she did not persevere after her first failed attempt to apply when she arrived in China, since she was hesitant about claiming benefits while still receiving severance.

[58] The Tribunal recognizes that the Appellant always tried to act in an honourable manner. However, as noted in CUB 11086: “Claimants must take some responsibility for their own affairs.”

[59] To sum up, the Tribunal finds that the Appellant did not show that, throughout the period of the delay, she did what a “reasonable and prudent” person in her situation would have done to satisfy herself as to her rights and obligations. Nor were there any exceptional circumstances to justify the delay. She did not, therefore, meet the legal test for “good cause,” as required by subsection 10(4) of the Act, and is thus not entitled to an antedate to her claim.

[60] On all three issues in this appeal—the number of weeks of benefits, the determination of the benefit period, and the denial of an antedate—the Tribunal finds that the Respondent correctly applied the relevant provisions of the Act.

## **CONCLUSION**

[61] The appeal is dismissed.

Lilian Klein  
Member, General Division - Employment Insurance Section

## ANNEX

### THE LAW

#### Section 8 of the Act

**8 (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).

**(2)** A qualifying period mentioned in paragraph (1)(a) is extended by the aggregate of any weeks during the qualifying period for which the person proves, in such manner as the Commission may direct, that throughout the week the person was not employed in insurable employment because the person was

(a) incapable of work because of a prescribed illness, injury, quarantine or pregnancy;

(b) confined in a jail, penitentiary or other similar institution and was not found guilty of the offence for which the person was being held or any other offence arising out of the same transaction;

(c) receiving assistance under employment benefits; or

(d) receiving payments under a provincial law on the basis of having ceased to work because continuing to work would have resulted in danger to the person, her unborn child or a child whom she was breast-feeding.

**(3)** A qualifying period mentioned in paragraph (1)(a) is extended by the aggregate of any weeks during the qualifying period for which the person proves, in such manner as the Commission may direct, that

(a) earnings paid because of the complete severance of their relationship with their former employer have been allocated to weeks in accordance with the regulations; and

(b) the allocation has prevented them from establishing an interruption of earnings.

**(4)** A qualifying period is further extended by the aggregate of any weeks during an extension for which the person proves, in such manner as the Commission may direct, that

(a) in the case of an extension under subsection (2), the person was not employed in insurable employment because of a reason specified in that subsection; or

(b) in the case of an extension under subsection (3), the person had earnings paid to them because of the complete severance of their relationship with their former employer.

(5) For the purposes of subsections (2) to (4), a week during which the person was in receipt of benefits does not count.

(6) For the purposes of subsection (3) and paragraph (4)(b), a week during which the person was employed in insurable employment does not count.

(7) No extension under any of subsections (2) to (4) may result in a qualifying period of more than 104 weeks.

### **Section 10 of the Act**

**10 (1)** A benefit period begins on the later of

(a) the Sunday of the week in which the interruption of earnings occurs, and

(b) the Sunday of the week in which the initial claim for benefits is made.

(2) Except as otherwise provided in subsections (10) to (15) and section 24, the length of a benefit period is 52 weeks.

(3) Subject to a change or cancellation of a benefit period under this section, a benefit period shall not be established for the claimant if a prior benefit period has not ended.

(4) An initial claim for benefits made after the day when the claimant was first qualified to make the claim shall be regarded as having been made on an earlier day if the claimant shows that the claimant qualified to receive benefits on the earlier day and that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the initial claim was made.

(5) A claim for benefits, other than an initial claim for benefits, made after the time prescribed for making the claim shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.

(5.1) A claim for benefits referred to in section 23.1 with respect to a family member shall not be regarded as having been made on an earlier day under subsection (4) or (5) if

(a) at the time the claim is made, all benefits that may otherwise have been payable in relation to that claim have already been exhausted;

**(b)** the beginning of the period referred to in subsection 23.1(4) has already been determined with respect to that family member and the claim would have the effect of moving the beginning of that period to an earlier date; or

**(c)** the claim is made in any other circumstances set out in the regulations.

**(5.2)** A claim for benefits referred to in section 23.2 with respect to a critically ill child or children who are critically ill as a result of the same event must not be regarded as having been made on an earlier day under subsection (4) or (5) if

**(a)** at the time the claim is made, all benefits that may otherwise have been payable in relation to that claim have already been exhausted;

**(b)** the beginning of the period referred to in subsection 23.2(3) or (4) has already been determined with respect to that child or those children and the claim would have the effect of moving the beginning of that period to an earlier date; or

**(c)** the claim is made in any other circumstances set out in the regulations.

**(6)** Once a benefit period has been established for a claimant, the Commission may

**(a)** cancel the benefit period if it has ended and no benefits were paid or payable during the period; or

**(b)** whether or not the period has ended, cancel at the request of the claimant that portion of the benefit period immediately before the first week for which benefits were paid or payable, if the claimant

**(i)** establishes under this Part, as an insured person, a new benefit period beginning the first week for which benefits were paid or payable or establishes, under Part VII.1, as a self-employed person within the meaning of subsection 152.01(1), a new benefit period beginning the first week for which benefits were paid or payable, and

**(ii)** shows that there was good cause for the delay in making the request throughout the period beginning on the day when benefits were first paid or payable and ending on the day when the request for cancellation was made.

**(7)** A cancelled benefit period or portion of a benefit period is deemed never to have begun.

**(8)** A benefit period ends when any of the following first occurs:

**(a)** no further benefits are payable to the claimant in their benefit period, including for the reason that benefits have been paid for the maximum number of weeks for which benefits may be paid under section 12;

**(b)** the benefit period would otherwise end under this section; or

(c) [Repealed, 2002, c. 9, s. 12]

(d) the claimant

(i) requests that their benefit period end,

(ii) makes a new initial claim for benefits under this Part or Part VII.1, and

(iii) qualifies, as an insured person, to receive benefits under this Part or qualifies, as a self-employed person within the meaning of subsection 152.01(1), to receive benefits under Part VII.1.

(9) Whether or not the benefit period has ended, a request under paragraph 8(d) shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the request was made.

(10) A claimant's benefit period is extended by the aggregate of any weeks during the benefit period for which the claimant proves, in such manner as the Commission may direct, that the claimant was not entitled to benefits because the claimant was

(a) confined in a jail, penitentiary or other similar institution and was not found guilty of the offence for which the claimant was being held or any other offence arising out of the same transaction;

(b) in receipt of earnings paid because of the complete severance of their relationship with their former employer;

(c) in receipt of workers' compensation payments for an illness or injury; or

(d) in receipt of payments under a provincial law on the basis of having ceased to work because continuing to work would have resulted in danger to the claimant, her unborn child or a child whom she was breast-feeding.

(11) A claimant's benefit period is extended by the aggregate of any weeks during an extension of a benefit period under subsection (10) for which the claimant proves, in such manner as the Commission may direct, that the claimant was not entitled to benefits because of a reason specified in that subsection.

(12) If the child or children referred to in subsection 23(1) are hospitalized during the period referred to in subsection 23(2), the benefit period is extended by the number of weeks during which the child or children are hospitalized.

(12.1) If, during the period referred to in subsection 23(2), the start date of a claimant's period of parental leave is deferred or a claimant is directed to return to duty from parental leave, in accordance with regulations made under the *National Defence Act*, the benefit period is extended by the number of weeks during which the claimant's parental leave is deferred or the claimant is directed to return to duty, as the case may be.



**(13)** If, during a claimant's benefit period,

**(a)** regular benefits were not paid to the claimant,

**(b)** benefits were paid to the claimant for more than one of the reasons mentioned in paragraphs 12(3)(a) to (e) and at least one of those benefits was paid for fewer than the applicable maximum number of weeks established for those reasons, and

**(c)** the maximum total number of weeks established for those reasons is greater than 50, the benefit period is extended so that those benefits may be paid up to that maximum total number of weeks.

**(13.1)** A claimant's benefit period that has not ended before July 3, 2016, or that begins on or after that date, is extended by 17 weeks if the number of weeks for which benefits may be paid to the claimant has been increased as a result of subsection 12(2.1).

**(13.2)** Subject to subsections (13.7) and (14.1), if a claimant's benefit period ended before July 3, 2016, that benefit period is deemed, despite subsection (8), not to have ended and it is extended by 17 weeks beginning on July 3, 2016 if the number of weeks for which benefits may be paid to the claimant has been increased as a result of subsection 12(2.1).

**(13.3)** A claimant's benefit period that has not ended before July 3, 2016, or that begins on or after that date, is extended by 37 weeks if the number of weeks for which benefits may be paid to the claimant has been increased as a result of subsection 12(2.3).

**(13.4)** Subject to subsections (13.7) and (14.1), if a claimant's benefit period ended before July 3, 2016, that benefit period is deemed, despite subsection (8), not to have ended and it is extended by 37 weeks beginning on July 3, 2016 if the number of weeks for which benefits may be paid to the claimant has been increased as a result of subsection 12(2.3).

**(13.5)** A claimant's benefit period is extended by 29 weeks if the number of weeks for which benefits may be paid to the claimant has been increased as a result of subsection 12(2.5).

**(13.6)** A claimant's benefit period is extended by 22 weeks if the number of weeks for which benefits may be paid to the claimant has been increased as a result of subsection 12(2.6).

**(13.7)** A benefit period that is deemed under subsection (13.2) or (13.4) not to have ended does not include the period that begins on the day after the day on which the benefit period ended and that ends on July 2, 2016.

**(14)** Subject to subsections (14.1) and (15), an extension under any of subsections (10) to (13.6) must not result in a benefit period of more than 104 weeks.

**(14.1)** The period that is excluded under subsection (13.7) is to be included in the calculation of the 104 weeks for the purposes of subsection (14).

**(15)** Unless the benefit period is also extended under any of subsections (10) to (12.1), an extension under subsection (13) must not result in a benefit period of more than the sum of two

weeks and the total of the maximum number of weeks established under subsection 12(3) for each of the benefits paid to the claimant for one of the reasons mentioned in paragraphs 12(3)(a) to (e) during the claimant's benefit period before it was extended under subsection (13).

## **Section 12 of the Act**

**12 (1)** If a benefit period has been established for a claimant, benefits may be paid to the claimant for each week of unemployment that falls in the benefit period, subject to the maximums established by this section.

**(2)** Subject to subsections (2.1) to (2.6), the maximum number of weeks for which benefits may be paid in a benefit period because of a reason other than those mentioned in subsection (3) shall be determined in accordance with the table in Schedule I by reference to the regional rate of unemployment that applies to the claimant and the number of hours of insurable employment of the claimant in their qualifying period.

**(2.1)** Subject to subsection (2.7), the number of weeks of benefits set out in the table in Schedule I that applies in respect of a claimant is deemed to be the number of weeks that would otherwise apply in respect of the claimant, but for this subsection, increased by five weeks if the following conditions are met:

**(a)** the claimant is not a long-tenured worker;

**(b)** the claimant's benefit period began during the period beginning on January 4, 2015 and ending on July 8, 2017;

**(c)** the claimant's ordinary residence at the beginning of the benefit period was in a region referred to in subsection (2.8); and

**(d)** benefits were paid or payable to the claimant because of a reason mentioned in subsection (2) for at least one week in the benefit period.

**(2.2)** If subsection (2.1) applies in respect of a claimant whose benefit period is deemed under subsection 10(13.2) not to have ended,

**(a)** the claimant may, for weeks beginning on or after July 3, 2016, be paid benefits because of a reason mentioned in subsection (2) for no more than the five additional weeks referred to in subsection (2.1); and

**(b)** the claimant may not be paid those additional five weeks of benefits for any week that began before July 3, 2016.

**(2.3)** Subject to subsection (2.7), the number of weeks of benefits set out in the table in Schedule I that applies in respect of a claimant is deemed to be the number of weeks that would otherwise apply in respect of the claimant, but for this subsection, increased by 25 weeks if the following conditions are met:

**(a)** the claimant is a long-tenured worker;

**(b)** the claimant's benefit period began during the period beginning on January 4, 2015 and ending on October 29, 2016;

**(c)** the claimant's ordinary residence at the beginning of the benefit period was in a region referred to in subsection (2.8); and

**(d)** benefits were paid or payable to the claimant because of a reason mentioned in subsection (2) for at least one week in the benefit period.

**(2.4)** If subsection (2.3) applies in respect of a claimant whose benefit period is deemed under subsection 10(13.4) not to have ended,

**(a)** the claimant may, for weeks beginning on or after July 3, 2016, be paid benefits because of a reason mentioned in subsection (2) for no more than the 25 additional weeks referred to in subsection (2.3); and

**(b)** the claimant may not be paid those additional 25 weeks of benefits for any week that began before July 3, 2016.

**(2.5)** The number of weeks of benefits set out in the table in Schedule I that applies in respect of a claimant is deemed to be the number of weeks that would otherwise apply in respect of the claimant, but for this subsection, increased by 17 weeks if the following conditions are met:

**(a)** the claimant is a long-tenured worker;

**(b)** the claimant's benefit period began during the period beginning on October 30, 2016 and ending on February 25, 2017;

**(c)** the claimant's ordinary residence at the beginning of the benefit period was in a region referred to in subsection (2.8); and

**(d)** benefits were paid or payable to the claimant because of a reason mentioned in subsection (2) for at least one week in the benefit period.

**(2.6)** The number of weeks of benefits set out in the table in Schedule I that applies in respect of a claimant is deemed to be the number of weeks that would otherwise apply in respect of the claimant, but for this subsection, increased by 10 weeks if the following conditions are met:

**(a)** the claimant is a long-tenured worker;

**(b)** the claimant's benefit period began during the period beginning on February 26, 2017 and ending on July 8, 2017;

**(c)** the claimant's ordinary residence at the beginning of the benefit period was in a region referred to in subsection (2.8); and

**(d)** benefits were paid or payable to the claimant because of a reason mentioned in subsection (2) for at least one week in the benefit period.

**(2.7)** If more than one benefit period in respect of a claimant began before July 3, 2016, subsection (2.1) or (2.3), as the case may be, applies to increase the number of weeks of benefits only in the benefit period that began on the day that is closest to that day.

**(2.8)** The regions, for the purposes of subsections (2.1) to (2.6), are the following regions described in Schedule I to the *Employment Insurance Regulations*:

- (a)** the region of Northern Ontario described in subsection 2(3) of that Schedule;
- (b)** the region of Sudbury described in subsection 2(14) of that Schedule;
- (c)** the region of Northern Manitoba described in subsection 6(3) of that Schedule;
- (c.1)** the region of Southern Interior British Columbia described in subsection 7(1) of that Schedule;
- (d)** the region of Northern British Columbia described in subsection 7(5) of that Schedule;
- (e)** the region of Saskatoon described in subsection 9(2) of that Schedule;
- (e.1)** the region of Southern Saskatchewan described in subsection 9(3) of that Schedule;
- (f)** the region of Northern Saskatchewan described in subsection 9(4) of that Schedule;
- (g)** the region of Calgary described in subsection 10(1) of that Schedule;
- (g.1)** the region of Edmonton described in subsection 10(2) of that Schedule;
- (h)** the region of Southern Alberta described in subsection 10(3) of that Schedule;
- (i)** the region of Northern Alberta described in subsection 10(4) of that Schedule;
- (j)** the region of Newfoundland/Labrador described in subsection 11(2) of that Schedule;
- (k)** the region of Whitehorse described in subsection 12(1) of that Schedule; and
- (l)** the region of Nunavut described in subsection 14(2) of that Schedule.

**(3)** The maximum number of weeks for which benefits may be paid in a benefit period

- (a)** because of pregnancy is 15;
- (b)** because the claimant is caring for one or more new-born children of the claimant or one or more children placed with the claimant for the purpose of adoption is 35;
- (c)** because of a prescribed illness, injury or quarantine is 15;

(d) because the claimant is providing care or support to one or more family members described in subsection 23.1(2) is 26; and

(e) because the claimant is providing care or support to one or more critically ill children described in subsection 23.2(1), is 35.

(4) The maximum number of weeks for which benefits may be paid

(a) for a single pregnancy is 15; and

(b) for the care of one or more new-born or adopted children as a result of a single pregnancy or placement is 35.

(4.01) If a claim is made under this Part in respect of a child or children referred to in paragraph (4)(b) and a claim is made under section 152.05 in respect of the same child or children, the maximum number of weeks of benefits payable under this Act in respect of the child or children is 35.

(4.1) Even if more than one claim is made under this Act, at least one of which is made under section 23.1 - or even if more than one certificate is issued for the purposes of this Act, at least one of which is issued for the purposes of section 23.1 - for the same reason and in respect of the same family member, the maximum number of weeks of benefits payable under this Act in respect of that family member is 26 weeks during the period of 52 weeks that begins on the first day of the week referred to in paragraph 23.1(4)(a).

(4.2) If a shorter period is prescribed for the purposes of subsection 23.1(5), then that shorter period applies for the purposes of subsection (4.1).

(4.3) When a shorter period referred to in subsection (4.2) has expired in respect of a family member, no further benefits are payable under section 23.1 in respect of that family member until the minimum prescribed number of weeks has elapsed.

(4.4) Even if more than one claim is made under this Act, at least one of which is made under section 23.2 - or even if more than one certificate is issued for the purposes of this Act, at least one of which is issued for the purposes of section 23.2 - for the same reason and in respect of the same critically ill child, the maximum number of weeks of benefits payable under this Act in respect of that child is 35 weeks during the period of 52 weeks that begins on the first day of the week referred to in paragraph 23.2(3)(a).

(4.5) Even if more than one claim is made under this Act, at least one of which is made under section 23.2 - or even if more than one certificate is issued for the purposes of this Act, at least one of which is issued for the purposes of section 23.2 - for the same reason and in respect of the same children who are critically ill as a result of the same event, the maximum number of weeks of benefits payable under this Act in respect of those children is 35 weeks during the period of 52 weeks that begins on the first day of the week referred to in paragraph 23.2(4)(a).

**(5)** In a claimant's benefit period, the claimant may combine weeks of benefits to which they are entitled because of a reason mentioned in subsection (3), but the maximum number of combined weeks is 50. If the benefit period is extended under subsection 10(13), the maximum number of combined weeks equals the maximum number of weeks in the benefit period calculated under subsection 10(15) less two weeks.

**(6)** In a claimant's benefit period, the claimant may, subject to the applicable maximums, combine weeks of benefits to which the claimant is entitled because of a reason mentioned in subsections (2) and (3), but the total number of weeks of benefits shall not exceed 50 or, if the maximum number of weeks for which benefits may be paid to a claimant because of a reason mentioned in subsection (2) is greater than 45 weeks as a result of the application of any of subsections (2.1), (2.3), (2.5) and (2.6), the number that corresponds to that maximum number of weeks increased by five weeks.

**(7)** [Repealed, 2000, c. 14, s. 3]

**(8)** For the purposes of this section, the placement with a major attachment claimant, at the same or substantially the same time, of two or more children for the purpose of adoption is a single placement of a child or children for the purpose of adoption.