



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *A. L. v. Canada Employment Insurance Commission*, 2017 SSTGDEI 60

Tribunal Files Numbers: GE-16-2621
GE 16 2622
GE 16 2624
GE 16 2626
GE 16 2627
GE 16 2628
GE 16 2630

BETWEEN:

A. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Charline Bourque

HEARD ON: March 30, 2017

DATE OF DECISION: April 27, 2017

REASONS AND DECISION

PERSONS IN ATTENDANCE

The Claimant, Mr. A. L., participated in an in-person hearing held at the Service Canada Centre in X. Ms. Gabrielle Milliard accompanied him and acted as representative. Mr. M. L. attended as a witness.

INTRODUCTION

Docket GE-16-2622

[1] The Appellant filed an Employment Insurance claim starting on May 31, 2009. On September 22, 2014, the Canada Employment Insurance Commission (Commission) notified the Claimant that it had revised the weekly rate of benefits at \$387.00 instead of \$390.00. Furthermore, the established maximum number of weeks for the claim was then 21 weeks instead of 43 (GD3-129).

[2] On November 13, 2014, further to the Claimant's reconsideration request, the Commission informed him that the decision concerning the rate of benefits had been upheld. The Commission specified that the decision on the penalty had been rescinded. The Commission specified that the warning had been rescinded and that the overpayment had been remitted to non-fraudulent. Finally, the Commission specified that the decision on the reconsideration time frame had been upheld (GD3-144).

Docket GE-16-2624

[3] The Appellant filed an Employment Insurance claim starting on May 30, 2010. On September 22, 2014, the Commission notified the Claimant that it had revised the weekly rate of benefits at \$386.00 instead of \$414.00. Furthermore, the established maximum number of weeks for the claim was then 20 weeks instead of 40 (GD3-130).

[4] On November 13, 2014, further to the Claimant's reconsideration request, the Commission informed the Claimant that the decision concerning the rate of benefits had been

upheld. The Commission specified that the decision on the violation had been rescinded. The Commission specified that the warning had been rescinded and that the overpayment had been remitted to non-fraudulent. Finally, the Commission specified that the decision on the reconsideration time frame had been upheld (GD3-144).

Docket GE-16-2621

[5] The Appellant filed an Employment Insurance benefit claim effective May 29, 2011. On September 22, 2014, the Commission notified the Claimant that it had revised the weekly rate of benefits at \$382.00 instead of \$386.00. Furthermore, the established maximum number of weeks for the claim was then 16 weeks instead of 39 (GD3-122). The Commission also notified the Claimant that he had neglected to provide information on six occasions. The Commission claimed to have learned that the Claimant had specified his residential address as being X when he was in fact a resident of Quebec City. The Commission claimed to have determined that the Claimant had knowingly made these representations. The Commission imposed a warning (GD3-124/125).

[6] On November 13, 2014, subsequent to its reconsideration request, the Commission notified the Claimant that the decision on the unestablished benefit period had been upheld. The Commission specified that the decision on the penalty had been rescinded. The Commission specified that the warning had been rescinded and that the overpayment had been remitted to non-fraudulent. Finally, the Commission specified that the decision on the reconsideration time frame had been upheld (GD3-138).

Docket GE-16-2626

[7] The Appellant filed an Employment Insurance claim effective May 27, 2012. On September 22, 2014, the Commission notified the Claimant that it had revised the weekly rate of benefits at \$400.00 instead of \$420.00. Furthermore, the established maximum number of weeks for the claim was then 16 weeks instead of 39 (GD3-128).

[8] On November 13, 2014, subsequent to its reconsideration request, the Commission notified the Claimant that the decision on the benefit length and rate had been upheld. The Commission specified that the decision on the penalty had been rescinded. The Commission

specified that the warning had been rescinded and that the overpayment was remitted to non-fraudulent (GD3-143).

Docket GE-16-2627

[9] The Appellant filed an Employment Insurance claim effective May 26, 2013. On September 22, 2014, the Commission notified the Claimant that it had revised the weekly rate of benefits at \$405.00 instead of \$430.00. Furthermore, the established maximum number of weeks for the claim was then 16 weeks instead of 38 (GD3(a)-128).

[10] On November 13, 2014, subsequent to its reconsideration request, the Commission notified the Claimant that the decision on the benefit length and rate had been upheld. The Commission specified that the decision on the penalty had been rescinded. The Commission specified that the warning had been rescinded and that the overpayment had been remitted to non-fraudulent (GD3(a)-143).

Docket GE-16-2628

[11] The Appellant filed an Employment Insurance claim effective May 25, 2014. On September 22, 2014, the Commission notified the Claimant that it had revised the weekly rate of benefits at \$0.00 instead of \$388.00. Furthermore, the established maximum number of weeks for the claim was then 0 weeks instead of 35 (GD3-122).

[12] On November 13, 2014, subsequent to its reconsideration request, the Commission notified the Claimant that the decision on the benefit length and rate had been upheld. The Commission specified that the decision on the penalty had been rescinded. The Commission specified that the warning had been rescinded (GD3-135).

Docket GE-16-2630

[13] The Appellant filed an Employment Insurance claim effective May 28, 2014. On September 22, 2014, the Canadian Employment Insurance Commission (Commission) notified the Claimant that he had accumulated 699 hours of insurable employment between May 26, 2013, and May 24, 2014, when, given the unemployment rate in his region, he had to have 700 hours of insurable employment to qualify for benefits.

[14] On November 13, 2014, subsequent to its reconsideration request, the Commission notified the Claimant that the decision on the unestablished benefit period had been upheld. Nonetheless, in its arguments submitted to the Tribunal, the Commission specified that this appeal was not appropriate, since the Claimant could establish a benefit claim on May 25, 2014 (GD4-7).

[15] On November 11, 2015, the General Division of the Social Security Tribunal of Canada (Tribunal) rendered a decision, for which the Appellant applied for leave to appeal. The application for leave to appeal was granted on January 12, 2016. On July 7, 2016, the Tribunal's Appeal Division allowed the appeal and referred the case to the Tribunal's General Division for a new hearing on each of the issues in question.

[16] On September 19, 2016, the Claimant was notified that the Tribunal's General Division had joined the appeals. The hearing was held on March 30, 2017.

[17] This appeal was heard in-person for the following reasons:

- a) the complexity of the issue or issues
- b) the information in the file, including the need for additional information
- c) the fact that the Appellant was represented or other parties were represented

ISSUES

[18] The Claimant disputes the reconsideration of the applications for benefits under section 52 of the *Employment Insurance Act* (Act).

[19] The Claimant disputes the unestablished period of Employment Insurance benefits due to the change in residence under section 17 of the *Employment Insurance Regulations* (Regulations).

EVIDENCE

Unless otherwise specified, the references below are taken from Docket GE-16-2622.

[20] The evidence in the file is as follows:

- a) benefit claim dated June 6, 2009, showing the address X, 3rd Avenue, X (GD3-4 to GD3-16).
- b) Record of Employment for the period from November 2, 2008, to April 3, 2009, and addressed to the Claimant in X (GD3-17).
- c) benefit claim dated June 2, 2010, showing the address X, 3rd Avenue, X (GE-16-2624).
- d) Record of Employment for the period from November 2, 2009, to April 3, 2010, and addressed to the Claimant in X (GE-16-2624).
- e) benefit claim dated June 3, 2011, showing the address X, 3rd Avenue, X (GE-16-2621).
- f) Record of Employment for the period from November 2, 2010, to April 9, 2011, and addressed to the Claimant in X (GE-16-2621).
- g) benefit claim dated May 28, 2012, showing the address X, 3rd Avenue, X (GE-16-2626).
- h) Record of Employment for the period from October 30, 2011, to March 31, 2012, and addressed to the Claimant in Quebec City (GE-16-2626).
- i) benefit claim dated May 30, 2013, showing the address X, 3rd Avenue, X (GE-16-2627).
- j) Record of Employment for the period from October 30, 2012, to May 30, 2013, and addressed to the Claimant in Quebec City (GE-16-2627).

- k) benefit claim dated May 28, 2014, showing the address X, 5th Avenue, X (GE-16-2628 and GE-16-2630).
- l) Record of Employment for the period from October 28, 2013, to March 30, 2014, and addressed to the Claimant in Quebec City (GE-16-2628 and GE-16-2630).
- m) the City of X confirms that X, 3rd Avenue West is the property of Mr. S. D. (GD3-23).
- n) lease for a parking space dated 2006 (GD3-25); notice of renewal for the lease (GD3-26/RGD6-97).
- o) Desjardins bank statements from June 1, 2008, to June 10, 2014 (GD3-29 to GD3-45; GD3-49 to GD3-99).
- p) details of the transaction locations that the Commission has compiled (GD3-100 to GD3-108).
- q) Commission Investigator's Interview Reports (GD3-119 to GD3-123).
- r) Notice of Assessment for the year 2012 (GD3-136; RGD6-92).
- s) mortgage statement from the National Bank of Canada (GD3-137).
- t) a list of witnesses (GD3-138).
- u) supplementary information from the Commission (GD3-139 to GD3-142).
- v) Google Maps (RGD6-93 to RGD6-95).
- w) transcript of the hearing held before the Tribunal on September 3, 2015 (RGD4-4 to RGD4-62; RGD6-99 to RGD1-57).

[21] The evidence submitted at the hearing by the Appellant's testimony reveals that:

- a) The Claimant has specified that he no longer works, that he is retired. He held a position at the Department of Transportation for about 22 or 23 years.

- b) He specifies that he wanted at a specific time to be transferred to the Gaspésie, but that doing so would require removing someone else from their job.
- c) He thinks generally 6 months in Quebec City and 6 months in the Gaspésie. He works from the first week in November to the end of March or until the beginning of April.
- d) He has owned a property in the Gaspésie, at X, X in X since about 2000. In Quebec City, he lived with his mother, in the dwelling. The lease is not in his name.
- e) He specifies that his personal effects are in the Gaspésie. His home is furnished and he has shown photos of it. He indicates that for the dwelling in Quebec City, he kept his mother's furniture.
- f) He maintains that his primary dwelling has been in the Gaspésie since 2000.
- g) With respect to the numerous bank transactions in Quebec City, he specifies that he regularly visited his mother and daughter in Quebec City. Furthermore, he adds that he purchases the majority of his materials in Quebec City due to the lower cost (almost half the price) and due to the wider variety.
- h) He has argued that during the six months that he is in the Gaspésie, he generally comes to Quebec City four or five times, not more than one week per month.
- i) He specifies that before 2000, he had lived in Quebec City. He was born there, but his mother was from X. He therefore spent all his summers there. He specifies that, before purchasing the house, he spent his summers at the family home, which is the one to which his mail was sent. It belonged to the late J. J. It was J. J. who looked after his mail.
- j) He specifies that he addressed his mail to the place where he had to be when he received it. Therefore, for the mail received while he was in Quebec City, he used the dwelling address. If the mail was received while he was in the Gaspésie, he used the address of X. He specifies that the address in X was preferable, because no one could have gone to pick up his mail in X.

- k) He specifies that he did not know that the address used could give him an advantage with respect to Employment Insurance benefits.
- l) He emphasizes that there are contradictions in the Commission's investigation report. He specifies that the address in Quebec City is not his daughter's, but rather the address of his mother's dwelling. He specifies that it is his daughter who took care of his mother when he was not around.
- m) The property in X never belonged to him. Nonetheless, it is a family house when the investigator thought that it was his own house.
- n) The investigator did not go to the address on X. The Claimant sent his municipal tax slip, but the investigator did not question him about that property. He has specified that he had no property in the Gaspésie, which is false.
- o) The investigator met him in the Gaspésie.
- p) He has specified that he had evidence that he lived in the Gaspésie: the municipal tax slip and a list of witnesses, 5 of whom were from Quebec City and 5 of whom were from the Gaspésie. The investigator did not contact them.
- q) The investigator referred to a trailer and a barn and did not account for the house existing on the land.
- r) He has specified that he would go home to the Gaspésie when he finished working. He has no driver's licence, but asks his friends to drive him around.
- s) His mail is sent approximately half-half between the Quebec City address and the X address.
- t) He specifies that he was in Quebec City regularly when his mother was ill. Then, following her passing, he took over her lease. It was not amended and is still in her name. He pays the rent in-person every month, because he pays in cash.

[22] The evidence submitted at the hearing through Mr. M. L.'s testimony revealed the following:

- a) He specifies that he is a friend of Mr. A. L. He has known him for about 18–19 years.
- b) He specifies that he has gone to Mr. A. L.'s house in X. He has also done shopping according to the Claimant's needs. He has gone to the Claimant's home for vacation on a few occasions. The Claimant comes to visit him in Quebec City as well, but in the winter, since he is in the Gaspésie during the summer.
- c) He has argued that it is the main dwelling of Mr. A. L. in Quebec City, it is his mother's dwelling. He has argued that the X house is better equipped than the dwelling in Quebec City.
- d) He specifies that the Claimant worked in Quebec City, but that he spent all summer in the Gaspésie, namely, from April-May to October-November. He was well-settled there, well-equipped and had a big lot. He has argued that the Claimant spent more time in the Gaspésie. According to him, the trip takes nine hours.

PARTIES' ARGUMENTS

[23] The Appellant has presented the following arguments:

- a) The Claimant attempted to work in the Gaspésie, but was never successful in finding a job there. He had not intended to settle in Quebec City, but rather in the Gaspésie. He bought a house there in 2000, furnished it and decorated it.
- b) Each year, he would go back to the Gaspésie when he was done working.
- c) The Claimant spent nine months of the year in X due to work. He had documents in X, had expenses there, but when he finished working, he always returned to his dwelling. It was a matter of the Claimant's intention to return to settle in his house. Therefore, other than the objective elements, the subjective elements must be considered, as well as the Claimant's intention to choose his ordinary residence.

- d) What happened after the relevant period must not be taken into consideration.
- e) Section 17 of the Act specifies that the Claimant must be favoured in case of doubt.
Mr. A. L. was in Quebec City and was born in Quebec City, but as soon as he could go to the Gaspésie, he would go to the family home in X. It was his house, where he lived, then he had a dwelling in Quebec City, but he was already spending half of his time there. It is difficult to decide between them, since there are no documents. Mr. A. L. has had friends, his mother and his daughter, as well as his family physician in Quebec City. He prefers doing his errands in Quebec City, goes there to pay his room and board, but he has also been in the Gaspésie for a long time and his intention is to stay in the Gaspésie. Therefore, if we cannot decide between them, the benefit of the doubt must be given to the Claimant. His primary home is in the Gaspésie.
- f) There is a similarity with the Claimant's case, *M. L.*, in the decision that the Tribunal rendered. The only dwelling in his name was in Quebec City. He had all his things in Quebec City and had had the intention of moving there, but his personal effects were in La Malbaie and his primary home was still there.
- g) With respect to the Commission's reasons, one of the criteria is that he live in Quebec City five months per year, but the case law is clear that the place of work has nothing to do with the place of residence. He would move to work somewhere, but without penalty due to the unemployment rate.
- h) The second reason is based on the fact that the owner of the dwelling saw him each month. The Claimant has testified that he would come pay for the room and board every month in cash and therefore did it in person.
- i) The Commission told Mr. A. L. that his testimony was not valid, because it was one of his friends and that they were going to testify in his favour.
- j) Third criterion that the Commission withheld is the fact that he is going to stay in X. It has argued that it is slightly false, since it is a matter of the period before he had his house in X. There is still a specific logic behind sending his mail and there was a system that meant that it was more practical for him that way.

- k) Fourth criterion that the Commission withheld is that he has been voting in Quebec City and that his tax slip is in Quebec City. The Claimant explained that the elections have always been held in the fall or spring, periods coinciding with his presence in Quebec City. The tax slip would come in more during the winter period, which meant that he had them sent to Quebec City.
- l) The fifth criterion that the Commission considered is that of the bank transactions. The Claimant has explained that it is more practical for him to do his shopping in Quebec City due to the lower cost and the greater range of products.
- m) The Commission ignored the fact that Mr. A. L. had a furnished house in X. The Commission visited the wrong places and did not bother to visit the Claimant's house, despite the tax slip. The investigator refused the Claimant's witnesses, when they could have provided insight on Mr. A. L.'s presence in X.
- n) Mr. A. L. worked for close to 22 years in Quebec City, but he never had the intention of buying himself a house there. He did not redecorate his mother's apartment. He bought himself a property in the Gaspésie.
- o) With respect to X, the functioning of the mail is a slightly mingled, but there is a certain logic there. The Claimant did not have the intention of profiting off Employment Insurance. He always used the address in X.
- p) The Commission has specified case law with the same criteria, but what must be considered is that the Commission ignored the subjective elements and the Claimant's intention.
- q) The testimony before the General Division in 2015 aligns with the version presented today. His testimony seems sincere.

Cited Case Law:

- r) *R. F. v. Canada Employment Insurance Commission*, 2014 SSTGDEI 111 (RGD6-3 to RGD6-14);

- s) *J. T. v. Canada Employment Insurance Commission*, 2015 SSTGDEI 213 (RGD6-16 to RGD6-48);
- t) CUB 75060 (RGD6-50 to RGD6-53);
- u) CUB 66469 (RGD6-55 to RGD6-56);
- v) CUB 61554 (RGD6-58 to RGD6-60);
- w) *M. L. v. Canada Employment Insurance Commission*, 2015 SSTGDEI, Docket GE-15-1439 (RGD6-62 to RGD6-84);
- x) *M. L. v. Canada Employment Insurance Commission*, 2014 SSTGDEI 220 (RGD6-85 to RGD6-89);

[24] The Respondent made the following submissions:

Reconsideration

- a) The Commission drew the Social Security Tribunal's attention to the fact that when a claimant has not received benefits to which they were entitled or has received benefits to which they were not entitled, subsection 52 of the Act states that, within 36 months after the benefits have been paid or would have been paid, the Commission may reconsider any claim related to those benefits. Moreover, if the Commission believes that the Claimant made a false or misleading statement or representation, regardless of whether than false statement or representation was made knowingly the time frame for reconsideration is extended up to 72 months after the date on which the benefits have been paid or would have been paid.
- b) In the present case, there are false statements, considering that the Claimant reported X, in the Gaspésie, as his place of residence, when in fact his place of residence has always been in Quebec City.

- c) The reconsidered the claim on September 22, 2014. The Commission is therefore within the 36-month time frame (at all times) and/or 72 months (when it has reason to believe that there are false representations) granted by the Act to do so.
- d) The Court of Appeal has ruled on the application of section 33 of the *Unemployment Insurance Act* (now section 38 of the *Employment Insurance Act*) by confirming the Commission's right to impose penalties in *Rancourt* (A-355-96), *Pelletier* (A-988-96) and *Campeau* (A-989-96). It even decided that cancellation of warning letters did not prevent the Commission from applying the provisions of subsection 43(6) of the *Unemployment Insurance Act*—now 52(5) of the *Employment Insurance Act*—to extend the time frame provided for in subsection 33(4) of the *Employment Insurance Act*—now section 40 of the *Employment Insurance Act*—in *Pilote* (A-868-97) from 36 months to 72 months.
- e) In another decision, the same court, in *Dussault* (A-646-02) decided that there was no relationship between section 33, which provides for the imposition of a penalty when a false or misleading representation has been made knowingly, and subsection 43(6), the provisions of which enable the Commission to recover, over an extended period of time, money that a claimant received and to which they were not entitled. The judge in *Dussault* confirmed the Commission's right to proceed with the reconsideration of the benefit claim under 43(6) of the Act, now 52(5).
- f) In CUB 74353, the Umpire confirmed that, in such a case, the Commission had 72 months to proceed with the reconsideration, and he confirmed that it was not necessary for the false or misleading representation to have been made knowingly, referring to *Canada v. Pilote* A-868-97 (FCA), 15-12-98).
- g) In conclusion, the Commission was justified in reconsidering the claim under section 52 of the *Employment Insurance Act*.

New calculation (rate and number of payable weeks)

- h) The expression “ordinary residence” is not defined in the legislation. Taking the meaning of the word “resident,” it must refer to the place in which a claimant has

settled. The modifier “ordinarily” clearly excludes from the definition any stay in a place in which a person has no intention of establishing residence.

- i) For an individual who lives alone or has no family obligations, the place in which that individual has settled is the place of ordinary residence; any stay in other locations, even of lengthy duration, does not change this.
- j) A change in residence occurs when a person leaves an area with the intention of settling permanently elsewhere and takes along all personal belongings.
- k) According to the facts in the docket, the Claimant has his place of residence in Quebec City—not in the Gaspésie. There are several key elements that support this presumption. The Claimant worked five (5) months in Quebec City (GD3-15). The owner of the Quebec City address (X X, Apartment X) confirms that it is the Claimant who comes to pay the rent every month and that she sees him regularly (GD3-116). The Claimant reported to the investigator that he lives occasionally in his nephew’s house in X (GD3-112 to GD3-115) when he is in passing through, while during the administrative review, he reported to possess a residence in X (GD3-125 and GD3-129). The Commission is of the opinion that the residence in X is actually a secondary residence, even though the Claimant claims to live there all summer, because the tax slip of X is addressed in Quebec City (GD3-126). Furthermore, the bank account of National Bank of Canada used to pay taxes is also at the address in Quebec City (GD3-127).
- l) When he filed of his benefit claims, the Claimant specified X—not X—as his “primary address.” He has been voting in Quebec City. For his income tax returns, his address is the one in Quebec City. The apartment in Quebec City is in his deceased mother’s name and he kept it. He mentions that it is he who lives there (GD3-130 to GD3-131). Furthermore, the bank transactions carried out are four (4) times as numerous in Quebec City than in the Gaspésie (GD3-20 to GD3-38, GD3-40 to GD3-92 and GD3-93 to GD3-101). Even though the Claimant had provided a list of witnesses, the Commission disregarded the list, given its potential subjectivity. The Commission thereby needed to review his benefit claim.

- m) The weekly rate of benefits is the maximum amount a claimant may receive for each week in the benefit period. The base rate of benefits is 55% of the average insurable weekly earnings specified in subsection 14(1.1) of the Act. The Claimant's average insurable weekly earnings will be determined by using all the insurable earnings of the base period (BP). The base period is the period of at least 26 consecutive calendar weeks in the Claimant's qualifying period ending with the week preceding the start of the benefit period within the meaning of subsection 14(4) of the Act and by dividing this amount by a divisor as specified in subsection 14(2) of the Act. This divisor is the greater of:
1. the number of weeks in the BP during which the Claimant had an insurable employment; or
 2. a number equivalent to the variable entrance requirement (VER), plus 2, up to a maximum of 22.
- n) The Commission submits that the case law supports its decision. The Federal Court of Appeal reaffirmed the principle that a claimant's rate of benefits is based on the insurable weekly earnings and that the rate of these benefits and the method used to calculate them are the same for all claimants, namely, 55% of the insurable weekly earnings pursuant to subsection 14(1) of the Act (*Manoli v. Canada (Attorney General)*, 2005 FCA 178).
- o) Judge Rouleau confirmed that section 14 of the Act is very clear on the way in which a claimant's rate of benefits must be calculated, and that the Act grants no discretionary authority in this matter (CUB66434).
- p) The Federal Court of Appeal reaffirmed the principle that adjudicators are not permitted to rewrite legislation or interpret it in a manner that is contrary to its plain meaning (*Canada (Attorney General) v. Knee*, 2011 FCA 301).
- q) Subsection 12(2) of the Act establishes the maximum number of weeks for which Employment Insurance benefits may be paid in a benefit period, based on the number

of hours of insurable employment accumulated in the qualifying period and the applicable regional rate of unemployment.

- r) The Commission has claimed that the case law supports its decision. Judge Marin confirmed that the application of the mathematical formula in Annex 1 mentioned in subsection 12(20) of the Act does not allow any discretion (CUB 63948).
- s) According to the case law (CUB 64683), it was established that the criterion being used to determine the “ordinary residence” implies the consideration of both subjective and objective facts. This term designates the residence that is the most significant for the Appellant, either by usage, regularity or consistency in choosing his or her residence.
- t) In CUB 72469, the Umpire dismissed the Claimant’s appeal, with the following explanation: [translation] “She was visiting her mother in the Gaspésie, handling the payment of bills requiring her attention, since she was the homeowner. However, it would be fictitious to deem her residence as being in the Gaspésie. Objectively, she visited the Gaspésie, but had her residence elsewhere. She had her place of residence in the Quebec City Area and not in the Gaspésie.”
- u) As in the aforementioned rulings and the evidence on file, the Commission determined that the Claimant’s place of residence is Quebec—not the Gaspésie.

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- v) The Claimant’s residential address is in the economic region of Quebec, which was not included in the best 14 weeks pilot project areas. The regional rate of unemployment was 4.9% (GD3-127 to GD3-129).
- w) The Claimant had no insurable earnings and received Employment Insurance Benefits from May 31 to October 31, 2009. The base period is therefore the period from May 31, 2009, to April 3, 2010. During that period, there were twenty-two (22) weeks in which the Claimant received insurable earnings. During the same period, the Claimant’s insurable earnings were \$15,429.00.

- x) It was determined that the divisor would be 22, since it was the greater of the number of weeks in the base period in which the Claimant had received insurable earnings (GD3-16) and the number provided in the table in subsection 14(2) (GD4-13). The calculation of the rate of Employment Insurance benefits is therefore the following:
- y) $\$15,429.00$ (insurable earnings during the base period) \div 22 (divisor) = $\$701.00$ (average insurable weekly earnings) \times 55% = 386.00 (rate of benefits).
- z) The Claimant accumulated 826 hours of Employment Insurance in his qualifying period; the regional rate of unemployment was 4.9% at the time that the benefit period was established. As a result, the number of weeks for which Employment Insurance benefits can be paid out pursuant to Schedule I of subsection 12(2) of the Act is 20, including the five (5) additional weeks that he qualified (GD4-17 to GD4-18).

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- aa) The Claimant's residential address is in the economic region of Quebec, which is not included in the best 14 weeks pilot project areas. The regional rate of unemployment was 4.4% (GD3-126 to GD3-128).
- bb) In this case, the base period was extended by 22 weeks because the Claimant did not have insurable earnings and received Employment Insurance benefits from June 1 to November 1, 2008. The base period is therefore the period from June 1, 2008, to April 4, 2009. During that period, there were twenty-two (22) weeks in which the Claimant received insurable earnings. During the same period, the Claimant's insurable earnings were $\$15,491.00$.
- cc) it was determined that the divisor would be 22, since it was the greater of the number of weeks in the base period in which the Appellant had received insurable earnings (GD3-17) and the number provided in the table in subsection 14(2) (GD4-13). The calculation of the rate of Employment Insurance benefits is therefore the following:

$$\begin{aligned} & \$15,491.00 \text{ (insurable earnings during the base period)} \div 22 \text{ (divisor)} = \$704.00 \\ & \text{(average insurable weekly earnings)} \times 55\% = \$387.00 \text{ (rate of benefits).} \end{aligned}$$

dd) the Claimant accumulated 853 hours of insurable employment in his qualifying period; the regional rate of unemployment was 4.4% at the time of the establishment of the benefit period. As a result, the number of weeks for which Employment Insurance benefits can be paid out pursuant to Schedule I of subsection 12(2) of the Act is 21, including the five (5) additional weeks that that he qualified (GD4-17 to GD4-18).

Docket GE-16-2624

ee) the Claimant's residential address is in the economic region of Quebec, which was not included in the best 14 weeks pilot project areas. The regional rate of unemployment was 4.9% (GD3-127 to GD3-129).

ff) The Claimant did not have insurable earnings and received Employment Insurance benefits from May 31 to October 31, 2009. The base period is therefore the period from May 31, 2009, to April 3, 2010. In that period, there were twenty-two (22) weeks in which the Claimant received insurable earnings. During the same period, the Claimant's insurable earnings were \$15,429.00.

gg) it was determined that the divisor would be 22, since it was the greater of the number of weeks between the number of weeks in the base period in which the Claimant received insurable earnings (GD3-16), and the number provided in the table in subsection 14(2) (GD-14). The calculation of the rate of Employment Insurance benefits is therefore the following:

$$\begin{aligned} & \$15,429.00 \text{ (insurable earnings over the course of the base period)} \div 22 \text{ (divisor)} \\ & = \$701.00 \text{ (average insurable weekly earnings)} \times 55\% = 386.00 \text{ (rate of} \\ & \text{benefits)}. \end{aligned}$$

hh) the Claimant accumulated 826 hours of insurable employment in his qualifying period; the regional rate of unemployment was 4.9% at the time the benefit period was established. As a result, the number of weeks for which Employment Insurance benefits can be paid pursuant to Schedule I of subsection 12(2) of the Act is 20, including the five (5) additional weeks that he qualified (GD4-17 to GD4-18).

Docket GE-16-2626

- ii) The Claimant's residential address is in the economic region of Quebec, which was not included in the best 14 weeks pilot project areas. The regional rate of unemployment was 5.2% (GD3-125 to GD3-127).

- jj) In the present case, the base period was extended by 22 weeks because the Claimant did not have insurable earnings and received Employment Insurance benefits from May 29 to October 29, 2011. The base period is therefore the period from May 29, 2011, to May 26, 2012. During that period, there were twenty-two (22) weeks in which the Claimant received insurable earnings. During the same period, the Claimant's insurable earnings were \$15,988.00.

- kk) it was determined that the divisor would be 22, since that was greater of the number of weeks between the number of weeks in the base period during which the Claimant had received insurable earnings (GD3-16) and the number provided in the table in subsection 14(2) (GD4-12). The calculation of the rate of Employment Insurance benefits is therefore the following:

$$\begin{aligned} & \$15,988.00 \text{ (insurable earnings over the course of the base period)} \div 22 \text{ (divisor)} \\ & = \$727.00 \text{ (average insurable weekly earnings)} \times 55\% = 400.00 \text{ (rate of} \\ & \text{benefits)}. \end{aligned}$$

- ll) The Claimant accumulated 857 hours of insurable employment in his qualifying period; the regional rate of unemployment was 5.2% at the time the benefit period was established. At that time, the economic region of Quebec was no longer entitled to five (5) additional weeks. As a result, the number of weeks for which Employment Insurance benefits can be paid out pursuant to Schedule I of subsection 12(2) of the Act is 16 (GD4-16 to GD4-17).

Docket GE-16-2627

- mm) Based on the unemployment rate of 4.6% (GD3-127 to GD3-129) in the economic region of Quebec, where the Claimant's residential address is, the number of

best weeks required for the calculation of the rate of benefits was 22, pursuant to the table in subsection 14(2) of the Act (GD4-11).

nn) Within the qualifying period, the 22 weeks that had the highest insurable earnings were the weeks entered on the Record of Employment (GD3-18), with total insurable earnings of \$16,199.00 (GD3-19).

oo) the calculation of the rate of benefits was therefore as follows:

$$\begin{aligned} & \$16,199.00 \text{ (highest insurable earnings)} \div 22 \text{ (divisor)} = \$736.00 \text{ (average} \\ & \text{insurable weekly earnings)} \times 55\% = \$405.00 \text{ (rate of benefits)}. \end{aligned}$$

pp) the Claimant accumulated 845 hours of insurable employment in his qualifying period; the regional rate of unemployment was 4.6% at the time the benefit period was established. As a result, the number of weeks for which Employment Insurance benefits can be paid out pursuant to Schedule I of subsection 12(2) of the Act is 16 (GD4-15).

Docket GE-16-2628

qq) Based on the unemployment rate of 4.7% (GD3-120 to GD3-130) in the economic region of Quebec, where the Claimant's residential address is, the required number of best weeks for the calculation of the rate of benefits was 22, pursuant to the table in subsection 14(2) of the Act (GD4-11).

rr) Within the qualifying period, the 22 weeks that had the highest insurable earnings were the weeks entered on the Record of Employment (GD3-15), with total insurable earnings of \$14,243.00 (GD3-16).

ss) the calculation of the rate of benefits was therefore as follows:

$$\begin{aligned} & \$14,243.00 \text{ (highest insurable earnings)} \div 22 \text{ (divisor)} = \$647.00 \text{ (average} \\ & \text{insurable weekly earnings)} \times 55\% = \$356.00 \text{ (rate of benefits)}. \end{aligned}$$

- tt) The Claimant accumulated 706 hours of insurable employment in his qualifying period; the regional rate of unemployment was 4.6% at the time the benefit period was established. As a result, the number of weeks for which Employment Insurance benefits can be paid out pursuant to Schedule I of subsection 12(2) of the Act is 14 (GD4-14).

Docket GE-16-2630

- uu) In this case, the Commission has mentioned to the Social Security Tribunal that the employer issued a new Record of Employment on November 26, 2014 (GD3-136). The new Record of Employment amends the one made previously. The Claimant worked from October 28, 2013, to March 30, 2014, during which time he accumulated 706 hours of insurable employment. With this Record of Employment, the Commission established the benefit claim on May 25, 2014 (GE-16-2630).
- vv) the appeal is therefore no longer applicable for this issue.

ANALYSIS

The relevant legislative provisions are reproduced in an appendix to this decision.

Reconsideration

[25] Subsection 52(5) of the Act states that if, in the Commission's opinion, a false or misleading statement or representation has been made in connection with a claim, the Commission has seventy-two (72) months within which to reconsider the claim.

[26] The Commission has specified that there are false statements, considering that the Appellant reported X, in the Gaspésie, as his place of residence, when in fact his place of residence has always been Quebec City.

[27] In *Dussault*, the Federal Court of Appeal cites *Langelier* and specifies the following:

With respect, I consider that the Umpire misdirected himself when he imposed on the Commission a burden pursuant to s. 43(6) of proving [translation] "that the Claimant knowingly made false statements". That

is actually the burden imposed by s. 33(1), dealing with penalties. All Parliament requires in s. 43(6) is that “in the opinion of the Commission, a false or misleading statement . . . Has been made”.... Of course, in order to arrive at this conclusion the Commission must be reasonably satisfied that “a false or misleading statement or representation has been made in connection with a claim.

[28] In other words, the mere existence or presence of a false or misleading statement suffices, to the degree that the Commission is reasonably satisfied of this fact, to trigger the application of subsection 43(6) without the need to find intention in the person making the statement. Its existence is inferred objectively from the fact (*Canada (Attorney General) v. Dussault*, 2003 FCA 372).

[29] The Tribunal is of the opinion that the Commission could determine whether there was a false or misleading statement. Thus, the Tribunal is of the opinion that the Commission was reasonably satisfied that a false or misleading statement had been made, regardless of whether it had been made knowingly, in order to be able to apply subsection 52(5) of the Act.

[30] As a result, the Tribunal is satisfied that the Commission could reconsider the Claimant’s applications for benefits within 72 months as provided for by the Act.

Place of residence

[31] Paragraph 17(1)(a) of the Regulations states that for the purposes of sections 7, 7.1, 12 and 14 of the Act, the ordinary residence must be considered to determine the applicable regional rate of unemployment when establishing a claimant’s Employment Insurance claim.

[32] The Claimant’s Employment Insurance claims were initially established according to subsection 17(1) of the Regulations using the Gaspésie as the Claimant’s ordinary residence. Then, following the reconsideration of the decisions, the Commission established or not the benefits at issue by taking into account that the Claimant’s ordinary residence was the Quebec City Area.

[33] The Claimant argues that this was not his ordinary residence because, at the time, he filed his Employment Insurance claim, his ordinary residence was La Malbaie.

[34] Therefore, although the legislation does not specify what ordinary residence means, it is generally a place where a claimant is established, where he or she chooses to live. Both subjective and objective facts are considered in this determination. It is the residence that is the most significant for the Appellant, either by usage, regularity or consistency (CUB64683). Moreover, the facts that must be taken into consideration are those that existed at the time remuneration ceased (CUB69529 and CUB66469).

[35] The Commission has argued that the evidence in the docket shows that the Claimant's primary place of residence was the Quebec City Area and not the Gaspésie.

[36] The Commission has relied on the following elements:

- The Claimant worked five (5) months in Quebec City (GD3-17).
- The owner of Quebec City address (X X, Apartment X) confirms that the Claimant comes to pay the rent every month and that she sees him regularly (GD3-123).
- The Claimant has stated to the investigator that he would occasionally live in his nephew's house in X (GD3-119 to GD3-122) when passing through, while during the administrative review, he claimed to own a residence in X (GD3-135 to GD3-139).
- The Commission is of the opinion that, even though the Claimant has claimed to live there all summer, the residence in X is actually a secondary residence, because the tax slip of X is addressed in Quebec City (GD3-136). Furthermore, the bank account with the National Bank of Canada to pay the taxes is also at the Quebec City address (GD3-137).
- When he filed his benefit claims, the Claimant specified as "primary address" X—not X. He has been voting in Quebec City. For his income tax returns, his address is the one in Quebec City.
- The apartment in Quebec City is in his deceased mother's name and he kept it. He mentions that it is he who lives there (GD3-140 to GD3-141).

- Furthermore, the bank transactions carried out are four (4) times more numerous in Quebec City than in the Gaspésie (GD3-30 to GD3-33, GD3-57 to GD3-55 and GD3-100 to GD3-102). Although the Appellant had provided a witness list, the Commission disregarded it, given its potential subjectivity. The Commission thereby needed to review his benefit claim.

[37] For the following reasons, the Claimant has disputed the criteria that the Commission has raised:

- The case law is clear that the place of work has nothing to do with the place of residence.
- The owner of the dwelling saw him every month. The Claimant has testified that he would come to pay the rent in cash every month and that he would therefore do so in person.
- The Commission told him that his witnesses were not valid, because they were his friends and they were going to testify in his favour.
- It is false to specify that he stays in X, except on occasion. He has specified that he stayed in X before acquiring a house in X. Furthermore, there is still a certain logic behind sending his mail, and this system made it more practical for him in this way.
- He has been voting in Quebec City and his tax slip is sent to him in Quebec City, since the elections have always been held in the fall or spring, periods coinciding with his presence in Quebec City. The tax slip would come in during the winter period, when he would be in Quebec City.
- He explained that it is more practical for him to do his shopping in Quebec City due to the lower cost and the wider array of products, which explains the bank transactions carried out in Quebec City.

[38] The Tribunal notes that the Claimant does have a property in X and that it is not a trailer. The Claimant and his mother co-owned the property, and the tax slip was addressed to them in Quebec City.

[39] The Tribunal notes that the Claimant's Records of Employment are addressed to him in X until 2011. Thereafter, the employer used his Quebec City address.

[40] The Tribunal notes that the Claimant has no bills addressed to him in X. He claims to have always used the X address, which corresponds to the one for the family home or the one in Quebec City.

[41] The Claimant has claimed to spend about six months of the year in the Gaspésie and six months in Quebec City. He claims to normally come at most one week per month to Quebec City, even while he lives in the Gaspésie. He takes the opportunity to do his shopping there due to the lower cost and wider variety of products. He pays in rent in person to the owner, since he pays in cash. He is originally from Quebec City, but always spent his summers in the Gaspésie in the family home before buying himself a home. He worked for the Department of Transportation for about 22 years.

[42] The Tribunal notes that the Commission's table of bank transactions shows that the Claimant carried out more transactions in economic region of Quebec than in the economic region of Gaspésie-Îles-de-la-Madeleine. The Tribunal notes that, according to that table, the Claimant would be in the economic region of Quebec over several weeks during the same month, even while he was in an unemployment period.

[43] The Tribunal notes that the Claimant's bank statements are addressed to Quebec City, as are the statements for his mortgage of his house in X (GD3-137). Furthermore, he has claimed to use this address to do his taxes.

[44] The Tribunal also accounts for the fact that the Commission made several mistakes during the investigation. The investigator inspected the address at 5th Avenue in X, a typing error by the Claimant, since he should have indicated 3rd Avenue. This is the address of what the Claimant has described as the family home (GD3-109). Furthermore, the Commission referred to a trailer in regard to the Claimant's residence in X (GD3-139), when the tax slip actually indicates on the lot a building that is assessed at \$70,228 (GD3-136). Finally, the investigator referred to the Quebec City address as the Claimant's daughter's, while the lease is in his mother's name.

[45] M. L. confirms that the Claimant has spent his summers in the Gaspésie. He has gone to visit him on several occasions and has driven him there, as the Claimant has no driver's licence. He confirms that the house is furnished and that the Claimant is settled in there.

[46] The Tribunal considers the case law that the representative has cited. The Tribunal notes that the Claimant's situation differs from the Claimant's decision in GE-15-14-39 (*M. L. v. Canada Employment Insurance Commission*). This Claimant was originally from La Malbaie and would go back continuously to his parents' house. Furthermore, the last interruption of employment that he incurred was for an employer in La Malbaie. In the current situation, the Claimant is originally from Quebec City. He had a routine of spending his summers in the Gaspésie, but he lived and worked in Quebec City. He bought a house in the Gaspésie in 2000. He worked in Quebec City for about 22 years.

[47] The Tribunal is of the opinion that the Claimant's situation differs from the Claimant's situation in CUB 75060. In that decision, the claimant sent several documents showing the address of Pabos Mills, where the claimant specified his primary address to be. Yet, this is not the case here. The Claimant receives no documents at what he considers to be his primary residence in X. The Claimant's documents are, for the most part, addressed to his Quebec City address. Only some Records of Employment and the summons that the Commission carried out (GD3-117) are addressed to X. Furthermore, the Claimant used the address in X when he completed his Employment Insurance claims and his reconsideration request.

[48] The Tribunal is of the opinion that the Claimant's situation differs from those in CUB 75060 and CUB 61554 because it is not about the Claimant returning to his parents' house, since his mother lived in Quebec City. The Claimant has confirmed that he took over his mother's lease and that he would come regularly to Quebec City in order to take care of her. Nonetheless, the Tribunal notes that the Claimant has specified that, for a number of years, he would go to spend summers with his mother in the family residence located in X before buying his own property in X.

[49] The Tribunal notes that the Claimant's official documents, taxes, bank statements and tax accounts are sent to him at his Quebec City address. The Records of Employment were initially addressed to X before being addressed to Quebec City. The Claimant receives no mail

in X. Furthermore, according to the documents in the docket, he would use the X address for his Employment Insurance claims, the address that the investigator used to summon him to an interview.

[50] The Tribunal accounts also for the fact that the Claimant has specified that he considers his primary dwelling to be the one in X, since he is the owner there, while he has never had a property in Quebec City. He specifies that he has furniture there, while the apartment in Quebec City is furnished with items belonging to his mother.

[51] The Tribunal does not question the fact that the Claimant may spend his summers in the Gaspésie, receive guests there and spend several months a year there, as the Claimant and M. L. have testified. Nonetheless, the Tribunal is of the opinion, relying on the evidence and the submissions that the parties have made, that the Claimant's residence in X constitutes a secondary residence. The Tribunal accounts for the fact that the errors that the Commission made when it deemed the Claimant's residence in X to be a trailer. The Tribunal has difficulty understanding how the Commission could arrive at such a conclusion, particularly taking into account the municipal tax slip.

[52] Nonetheless, based on the evidence and the arguments that the parties have submitted, the Tribunal is of the opinion that, at the moment that his Employment Insurance applications were filed, the Claimant's usual residence was in the Quebec City Area. Relying on the evidence and the submissions that the parties have made, the Tribunal is of the opinion that the address of the Claimant's X residence is the one for the secondary residence. The Tribunal is thereby of the opinion that the economic region of Quebec must be used to carry out calculations to establish the Employment Insurance claims for each of the periods in question.

[53] As a result, the Tribunal is of the opinion that the Commission correctly determined the benefit periods using the economic region of Quebec when it considered the location of the Claimant's primary residence.

CONCLUSION

[54] The appeal is dismissed.

Charline Bourque
Member, General Division—Employment Insurance Section

ANNEX

THE LAW

Employment Insurance Act

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

(2) An insured person 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

| | |
|--------------------------------------|-----|
| 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 |

(3) An insured person who is 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 910 or more hours of insurable employment in their qualifying period.

(4) An insured person is a new entrant or a re-entrant to the labour force if, in 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.

(4.1) An insured person is not a new entrant or a re-entrant if the person has been paid one or more weeks of special benefits referred to in paragraph 12(3)(a) or (b) — or, as a self-employed person under Part VII.1, one or more weeks of benefits referred to in paragraph 152.14(1)(a) or (b) — in the period of 208 weeks preceding the period of 52 weeks before their qualifying period or in other circumstances, as prescribed by regulation, arising in that period of 208 weeks.

(5) For the purposes of subsection (4), an hour that is taken into account under any of paragraphs (4)(a), (b) or (c) may not be taken into account under the other.

(6) An insured person is not qualified to receive benefits if it is jointly determined that the insured person must first exhaust or end benefit rights under the laws of another jurisdiction, as provided by Article VI of the *Agreement Between Canada and the United States Respecting Unemployment Insurance*, signed on March 6 and 12, 1942.

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.

(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.

Employment Insurance Regulations

17 (1) The regional rate of unemployment that applies to a claimant is

(a) in the case of regions described in sections 2 to 11 of Schedule I, the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act or, if Statistics Canada does not publish the relevant rate for a region for reasons of confidentiality, the average that Statistics Canada has determined based on the minimum number of unemployed persons required to allow it to publish the rate; and

(b) in the case of regions described in sections 12 to 14 of Schedule I, the greater of the average that would arise under subparagraph (i) and the average that would arise under subparagraph (ii):

(i) the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act or, if Statistics Canada does not publish the relevant rate for a region for reasons of confidentiality, the average that Statistics Canada has determined based on the minimum number of unemployed persons required to allow it to publish the rate, and

(ii) the average of the seasonally adjusted monthly rates of unemployment for the last 12-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act or, if Statistics Canada does not publish the relevant rate for a region for reasons of confidentiality, the average that Statistics Canada has determined based on the minimum number of unemployed persons required to allow it to publish the rate.

(1.1) The regional rate of unemployment referred to in subsection (1) is

(a) for the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, the rate produced for the region in which the claimant was, during the week referred to in subsection 10(1) of the Act, ordinarily resident; and

(b) for the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, if the claimant was, during the week referred to in subsection 10(1) of the Act, ordinarily resident outside Canada, the rate produced for the region in which the claimant was last employed in insurable employment in Canada.

(2) If a claimant referred to in paragraph (1.1)(a) ordinarily resides so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant resides, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

(3) If a claimant referred to in paragraph (1.1)(b) was last employed in insurable employment in Canada so near to the boundaries of more than one region that it cannot be determined with

certainty in which region the claimant was employed, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

(4) The seasonally adjusted monthly rate of unemployment referred to in subsection (1) shall be obtained by using the regional rates of unemployment produced by Statistics Canada that incorporate an estimate of the rates of unemployment for status Indians living on Indian reserves.