Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

[TRANSLATION]

Citation: *L. S. v. Canada Employment Insurance Commission*, 2017 SSTGDEI 68

Tribunal File Number: GE-16-3840

BETWEEN:

L. S.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Bernadette Syverin

HEARD ON: March 13, 2017

DATE OF DECISION: May 9, 2017

Canada

REASONS AND DECISION

APPEARANCES

The Appellant, L. S., attended the hearing. Her husband and witness, G. S., was also present. The Respondent, the Canada Employment Insurance Commission (the Commission) was not present.

INTRODUCTION

[1] The Appellant applied for employment insurance benefits on May 3, 2016. In the application, the Appellant stated that she was living in the X region and that her home address was the same as her mailing address.

[2] On June 2,2016, the Commission informed the Appellant that it could not pay her employment insurance benefits because she had accumulated 618 hours of insurable employment during her qualifying period when 665 hours were required under the *Employment Insurance Act* (the Act).

[3] The Appellant requested a reconsideration of the decision rendered on June 2, 2016. In a reconsideration decision on September 8, 2016, the decision rendered on June 2, 2016, was upheld.

[4] On October 10, 2016, the Appellant appealed the reconsideration decision rendered by the Commission on September 8, 2016, with respect to her.

[5] The appeal was heard by teleconference for the following reasons:

> This form of hearing respects the requirement under the *Social Security Tribunal Regulations* to proceed as informally and quickly as circumstances, fairness and natural justice permit.

ISSUES

1. Did the Appellant accumulate sufficient insurable hours to qualify for employment insurance benefits under section 7 of the Act?

EVIDENCE

[6] The Appellant applied for employment insurance benefits on May 3, 2016. In the application, the Appellant stated that she was living in the X region and that her home address was the same as her mailing address. (GD3-1 to GD3-12)

[7] A record of employment issued on May 9, 2016, shows that the Appellant worked for the employer Intria Items Inc. Payroll Deductions and had accumulated a total of 629 hours of insurable employment and that her address was in X. (GD3-13)

[8] The claim for benefits was denied on June 2, 2016, because the Appellant had accumulated 618 hours of insurable employment during her qualifying period (May 3, 2015, and April 30, 2016), whereas 665 hours were required under the Act. (GD3-16)

[9] On June 6, 2016, in a telephone conversation with the Commission, the Appellant stated that she had just learned that she did not meet the eligibility criteria and that she had written the address of her spouse in X because she was living in X 50% of the time. Her permanent residence is instead located in X, Quebec, and that address would have benefited her more with respect to the number of insurable hours required for her application. (GD3-18)

[10] On June 10, 2016, according to notes written by an agent of the Commission: By changing the Appellant's address to X, the Appellant could qualify for benefits because, based on the unemployment rate in the X region, the Appellant would need 595 hours of insurable employment. It should be noted that, on the record of employment issued by her last employer, her address was also in X, so real doubt remains about the Appellant's statement that her home address was in fact in X. (GD3-19)

[11] On June 13, 2016, the Appellant reiterated that she was living half of the time with her spouse in X and that she owned a condominium in X. She was in a common-law relationship and spent as much time with her spouse in X as she did at her condominium in X. She said that the

Commission's representative who helped her complete her application had told her that her primary address could be specified as her secondary address. She also stated that she had completed her claim for benefits quickly without reading it and that this was the first time she had applied for employment insurance. (GD3-21)

[12] On June 14, 2016, the Appellant confirmed that she was in a common-law relationship with G. S. and that, for the Old Age Security program, she used his address in X. She did not have a full-time work schedule, so she could be in the condominium in X for a few days and then in X for a few days; she went back and forth. She also stated that she was a member of the condominium co-owners' association and that it was almost full-time volunteer work because she was administering bids and handling contracts (for maintenance, among other things). She said that she had made the change of address with her employer in March 2016 so that, if she received urgent mail, it would be sent to X, as she knew that layoffs were coming. In addition, the Appellant stated that she voted in elections in X and used the X address for her taxes, driver's licence and automobile insurance. Lastly, she wanted to change her address to get the employment insurance to which she had contributed all her life but for which she had never applied. (GD30-GD3-31)

[13] To demonstrate that her principal residence was in X and not in X, the Appellant provided the Commission with the following documents:

(a) Hydro-Québec bill, statement of account as at May 26, 2016, on which the Appellant's name and X address appear (GD3-24);

(b) City of X property assessment notice dated February 22, 2016, with the Appellant's name and X address (GD3-25);

(c) Document entitled syndicate of co-owners of X X containing the name of the Appellant, as treasurer, and that of another person named G. S. (GD3-26 to GD3-29).

[14] On July 19, 2016, in a letter to the Appellant, the Commission informed the Appellant that her application could not be reconsidered, having determined that the Appellant's place of habitual residence was in X. For that reason, the Appellant was not entitled to employment

insurance benefits, since she had accumulated 618 hours of insurable employment, whereas 665 hours were required. The decision was sent to the X address. (GD3-58)

[15] On August 12, 2016, the Appellant requested a reconsideration of the decision rendered on July 19, 2016, noting that the decision had been sent to her principal residence in X, Quebec. She attached to her request for reconsideration a number of documents showing that her address was in X, such as the following: (GD3-59 to GD3-85)

(a) Hydro-Québec bills and City of X tax bills;

(b) Insurance bill from Desjardins, the agent for syndicate of co-owners of X X;

(c) Her condominium insurance policy;

(d) Correspondence from Sears Optical;

(e) Certificate of honesty issued by her employer;

(f) Letter from CIBC for her bank account and employee benefits;

(g) Pay statements from her former employer;

(h) Confirmation of change of address with her employer CIBC change of address;

(i) T4 slips for her income tax returns;

(j) RBC credit card bills;

(k) Letter to the Commission in which she expressed indignation that the Commission was refusing to acknowledge that her primary residence was in fact in X.

[16] On September 8, 2016, the Appellant stated that she wrote the X address on her application for employment insurance benefits because she was filing her claim in Sainte-Agathe. It did not occur to her to write the X address. Since she received mail in X and was living at that address, she did not specify that her mailing address was different from her home address. Her workplace was in the Montréal region. When she was working, she stayed in her condominium in X. When she was not working, she stayed in X; however, sometimes she stayed

in X even when she was not working. When she stayed in X, her spouse was with her. She could not say how often she went to X or to X. She used to receive mail about her employment at her X address, but in March she changed her address with her employer to the X address. The change of address was made because the Appellant wanted to ensure that her important mail would be sent to X. Moreover, her spouse was not always with her in X, so when he was in X, he could notify her when she had important mail. She confirmed that she voted in elections in X and that that address was the one used for her driver's licence, because it cost less for her vehicle registration. She completed the 2016 Notice of Enumeration in X. When she received the same notice of enumeration at her X address, she cancelled that notice and asked to receive future notices in X only. Lastly, the residence in X is in the name of her common-law spouse, and not in her name. The appellant considers her principal residence to be in X. (GD3-86)

[17] In her notice of appeal, the Appellant stated that she had owned her condominium in X since 1996. She also went to the Service Canada office in X to apply for benefits; however, since the line was too long, her spouse suggested that she apply in Sainte-Agathe. When she arrived in Sainte-Agathe, she was directed to a computer to apply. She also stated that there was confusion about answering the residence question: "I did not notice that it was asking for 'principal residence,' and I gave the address of my spouse, who has a home in the North." (GD2-1-GD2-4)

Testimony at the hearing

[18] The Appellant stated the following during the hearing:

(a) Contrary to page GD3-21, no one told her that she could specify her secondary address as her primary address. She was not careful in answering the question about her home address. Her principal residence is her condominium in X, of which she is the sole owner, but she did not consider it appropriate to specify that address when she was completing her claim for benefits. She had made a mistake regarding her address, and the error was changed. Therefore, she does not understand the confusion regarding her address.

(b) The home in X is in the name of her spouse, and her principal residence is in X, Quebec. She is in a common-law relationship with G. S., and the X address is the one used for the Old Age Security program. This does not cause a problem, because her primary address can remain in X. All correspondence regarding the Old Age Security program is sent to her address in X. On her income statements, her address is the one in the X region. She is therefore on the voters' list for the X region.

(c) She changed her address with her employer to the X address. Therefore, her notice of termination was sent to the address in X. She changed her address simply to avoid having to go back and forth. Basically, her change of address with her employer was done for no specific reason.

(d) She worked on call five to eight days a month. When she was working, she stayed in her condominium in X. She cannot say how much time she spent between Montréal and X because she did not keep a record of her comings and goings between the two places.

[19] The witness and spouse of the Appellant, G. S. testified as follows:

(a) G. S. built his house in X in 1991 and has lived there for 25 years. At first, he went to X only on the weekend. Since 2005, he has been retired and has been staying in X longer. However, when his spouse was working in Montréal for five to eight days a month, he stayed with his spouse in X. His spouse is the sole owner of the condominium in X.

(b) It is difficult to determine how long he spent in X and in X.

(c) His principal residence is in X but, for purposes of living together, he considers his residences to be in X and in X. His spouse did not commit any fraud. She has been contributing to employment insurance for 40 years and has never applied for it, and she should be entitled to it.

Evidence introduced post-hearing

[20] In response to a request from the Tribunal, on April 19, 2017, the Commission provided screen captures of an online application for employment insurance benefits. These documents show the questions that were asked regarding residence. (GD6-1 to GD6-3)

[21] The Commission also confirmed that, although the Appellant's record of employment shows that she had accumulated 629 hours of insurable employment, the Commission determined that, during her qualifying period from May 3, 2015, to April 30, 2016, the Appellant had accumulated only 618 hours of insurable employment. Box 6 of the record of employment shows that the pay period was biweekly. Therefore, the maximum number of consecutive pay periods during the period of employment is 27. The number of hours included in Box 15A, 629 hours, is therefore the number of hours accumulated between April 19, 2015, and April 30, 2016. The qualifying period used to calculate the Appellant's hours of insurable employment is the 52-week period preceding the start of the benefit period, that is, May 3, 2015, to April 30, 2016; the Appellant accumulated 618 hours of insurable employment. (GD8-1)

PARTIES' ARGUMENTS

[22] The Appellant submits that she made a mistake by specifying the X address in her claim for benefits. Her home address is in X, because she owns a condominium in X and it is in that region that her principal residence is located.

[23] The Commission is of the opinion that, according to the information in the file, the address of the Appellant's place of habitual residence is in fact in X. In addition, the Appellant changed her address with her employer before she stopped working, and she filed her claim for benefits indicating that she was living in X. Even though she said that she went to the Sainte-Agathe office to file her claim (page GD3-86), there was no obligation to specify the X address as the home address and mailing address. It is the X address that the Appellant specified on a number of official documents, and it at that address that she wanted to receive her mail, so that she could read it as quickly as possible.

[24] The Commission believes that, by using the address of the Appellant's condominium in X, the Appellant would be part of the Montréal economic region. When the Appellant filed her claim for benefits, the unemployment rate in the Montréal region was 8.6%, and the number of insurable hours for that region was 595. Thus, by changing her address to the X region, the appellant could have qualified for employment insurance benefits.

[25] According to the Commission, the Appellant cannot claim that her primary address is in X when she files her application and then, after being informed that she does not qualify in the X region, change the information and specify her X address in order to qualify. As stated in *Lévesque* (A-557-96), there is abundant and consistent case law clearly establishing that a Board of Referees must lend much greater weight to the initial spontaneous declarations made prior to the Commission's decision than to statements made later to justify or improve the claimant's situation in the face of an unfavourable decision from the Commission.

ANALYSIS

[26] The relevant statutory provisions are appended to this decision.

[27] The evidence shows that the Appellant filed a claim for benefits on May 3, 2016, in which the Appellant indicated that she was living in the X region. The Commission determined that an unemployment rate of 6.7% applied to that region at the time of filing. In accordance with the table in subsection 7(2) of the Act, the Appellant needed 665 hours of insurable employment to qualify for regular benefits. The Appellant had accumulated only 618 hours of insurable employment. The Appellant was therefore informed that she was not eligible for employment insurance benefits pursuant to subsection 7(2) of the Act.

[28] In this case, the Appellant disputes the region that the Commission used to determine the applicable regional unemployment rate, because the Appellant professes that, although she had specified the X address on her claim for benefits, her real address is in X, and the unemployment rate in that region should be used to determine her eligibility for benefits. Consequently, the Appellant also disputes the number of hours she must have accumulated to qualify for benefits.

[29] Before it determines whether the Appellant has accumulated enough insurable hours to qualify for employment insurance benefits under section 7 of the Act, the Tribunal must determine the applicable economic region based on the Appellant's place of habitual residence at the time that the Appellant filed her claim for benefits.

[30] Paragraph 17(1.1)(a) of the Regulations provides that the regional rate of unemployment referred to in subsection 1 is, 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.

[31] Under 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.

[32] The term "habitual residence" is not defined in the Act. Thus, the Tribunal finds that the words must be given their ordinary meaning. According to the *Dictionnaire Robert de la langue française,* "residence" means the place in which a person lives, a person's dwelling or the home of a person, and "habitual" means normally, regularly or ordinarily. Therefore, the Tribunal finds that a person's place of habitual residence is the place in which the person regularly, normally or ordinarily lives.

[33] In *J. R. v. Canada Employment Insurance Commission,* 2016 103368 (SST), 2016 SSTADEI 137, the Appeal Division of the Social Security Tribunal stated the following:

> The term "habitual residence" has been used by Parliament clearly to distinguish a permanent residence from a temporary one. The Tribunal is of the opinion that a claimant may have multiple places of residence, but only on [*sic*] usual place of residence. Moreover, the legal test used to determine "usual place of residence" implies the consideration of both subjective and objective facts, and must be applied to the situation that existed during the week in question.

[34] The issue of "habitual residence" is therefore a question of fact. The Tribunal finds that the Appellant's general lifestyle must be considered in determining the place of "habitual residence." Moreover, a determination as to the place of "habitual residence" must also be based

on the extent of the ties between the Appellant and her “habitual residence” when she filed her claim for benefits. On the following pages, the Tribunal will examine subjective and objective criteria to determine the location of the Appellant’s “habitual residence.”

[35] In her claim for benefits, the Appellant indicated that her address was in X. In the claim, the Appellant also stated that her home address was the same as her mailing address. In her earlier statements to the Commission, the Appellant stated that the agent who had helped her complete her claim for benefits had told her that she could specify her secondary residence as her primary address (GD3-21); however, at the hearing, the Appellant confirmed that that statement was false, because no one had helped her complete her claim for benefits. She also stated that she had made an error with regard to the address that she should have specified on her claim for benefits; her address of habitual residence was in fact the condominium that she owns in X and not the X address. She had specified the X address because she was applying in Sainte-Agathe.

[36] Moreover, the record of employment filed in support of the claim shows that the Appellant worked for Intria Items Inc. Payroll Deductions and had accumulated a total of 629 hours of insurable employment, and that her home address was in X (GD3-13). In all her statements to the Commission, the Appellant explained that her address with her employer was her address in X, but she had changed the address in March 2016 because the employer had just announced layoffs and she wanted to ensure that she would receive all urgent mail at the address in X. At the hearing, the Appellant stated that her change of address with her employer was not done for any specific reason. However, it was at that address that she received her notice of termination.

[37] The Appellant confirmed that, on her tax returns to the Canada Revenue Agency, she reported that she was in a common-law relationship with G. S. and that the address indicated was that of her spouse’s residence in X. She therefore voted in municipal, provincial and federal elections in the X region.

[38] In addition, the appellant confirmed that the X address was the address on her driver’s licence, because it cost less for her vehicle registration.

[39] Moreover, the appellant stated that she had received the 2016 Notice of Enumeration in X and had completed it. When she received the same notice at her address in X, she cancelled it and requested that future notices be sent to her address in X.

[40] As well, for the purposes of the Old Age Security program, the Appellant uses the address in X.

[41] Finally, according to notes written by an agent of the Commission, by changing the Appellant's address to X, the Appellant could qualify for benefits because, based on the unemployment rate in the X region, the Appellant would need 595 hours of insurable employment.

[42] In CUB 21968, Justice Strayer stated the following in the conclusion of his decision:

> *I would only add that it is obvious that strict attention must be paid to the circumstances of a claimant at the time when he became entitled to apply for benefits in determining where he is "ordinarily resident." Otherwise it would open to claimants newly in receipt of benefits, living in an area of relatively low unemployment, to move deliberately to some area of high unemployment where their entitlement to benefits would be greater. This surely is not contemplated by the Act or Regulations.*

[43] The Appellant argued that she had made a simple mistake by specifying the X address on her claim for benefits, that the error had been corrected and that she did not understand the confusion regarding her address. The Tribunal finds that the Appellant has contributed greatly to the confusion, because her statements regarding the error are inconsistent and riddled with contradictions.

[44] For example, the Appellant argued that she was the sole owner of her condominium in X and, although she had specified the address in X, the property there belonged to her spouse. Moreover, in several statements to the Commission, the Appellant argued that she spent as much time in X as in X. On June 13, 2016, the Appellant stated that she lived 50% of the time in X. At the hearing, the Appellant stated that it was wrong to suggest that she spent 50% of her time in X, because she did not keep a record of the time that she spent at each location.

[45] At the hearing, the Appellant argued that she worked on call in the Montréal region. She could work five to eight days a month. When she was working in the Montréal region, she would stay in her condominium in X but, after she finished working, she might stay in X a week or two more, depending on what she had to do in Montréal. This fact was corroborated by the Appellant's witness and spouse, G. S.

[46] Moreover, the Appellant argued that she specified the X address on her claim for benefits because she was filing her claim in Sainte-Agathe, and an officer in Sainte-Agathe had apparently told her that she could specify her secondary address as the primary address. However, at the hearing, the Appellant stated that no one had told her that she could specify her secondary address as the primary address; she had completed her claim on her own, on a computer at the Service Canada office in Sainte-Agathe. Moreover, in March 2016, she changed her address with her employer to the X address, apparently for no specific reason. On June 15, 2016, the Appellant confirmed that she was receiving all her mail at the address in X, except correspondence for her medications, property tax bills and Hydro-Québec bills, which she received in X.

[47] In a number of statements to the Commission, the Appellant argued that she had completed her application too quickly and that she had not been careful in answering the question on her home address and whether that address was different from her mailing address. Even though she had owned her condominium in X since 1996, she testified that she "[translation] did not consider it appropriate to specify her address in X" on her claim for benefits.

[48] Furthermore, in her notice of appeal, the Appellant stated that she was confused by the address question, because she had not paid attention to the fact that the question was asking for the address of her "principal residence." However, according to a report filed by the Commission after the hearing (GD6-2), there is no question regarding the address of a "principal residence" or "secondary residence." In the "address" field of the claim for benefits, all that is requested is the home address and whether the home address is different from the mailing address. Therefore, the Appellant's argument that she was confused by the question regarding her address cannot be

accepted since, when she was completing her claim for benefits, no question was asked regarding the address of her principal or secondary residence.

[49] The Appellant maintained that she had made a simple mistake by specifying her address in X. The Tribunal is of the opinion that it is rather unusual for people to make mistakes about their home address, the place with which they associate themselves by regularly and consistently choosing that residence as the most important one. Moreover, as the Commission notes, it was after she had been notified of her eligibility for benefits that the Appellant saw fit to disclose this error.

[50] As it appears from the evidence, the Appellant's place of habitual residence inevitably takes us back to X. Although the Appellant owns a condominium in X, she stayed in the X region when her work required it. The evidence shows that the most important residence for the Appellant was the one in X. Were that not the case, she would not have specified the X address on her employment insurance claim, the X address would not have appeared on her record of employment, and the Appellant would not have requested that other levels of government, such as the Canada Revenue Agency, Elections Canada, Statistics Canada (Census), Société de l'assurance automobile du Québec (driver's licence and vehicle registration), send important documents to X address.

[51] The Tribunal finds that the place of "habitual residence" is the place in which a person lives regularly, normally or ordinarily. That place will always be the one with which the person has the strongest and most recent ties. In the Appellant's case, it is the address in X that appears on the Appellant's official and important documents. That shows that the Appellant's ties and significant signs of daily life in X were so strong that her place of "habitual residence" was in X and certainly not in X.

[52] The Tribunal finds that, when the Appellant filed her claim for benefits, her place of habitual residence was in the X region, because she voted in that region, she stated on her income tax returns that she was living in X, and she stated that she used the X address for important mail. The X economic region therefore could not be considered the Appellant's place of habitual residence during the period used to determine the number of hours of employment that she was required to have accumulated.

CONCLUSION

[53] The Tribunal determines that the Appellant's place of "habitual residence" is in X, because the evidence shows that the residence in X is the most important, given that the Appellant chooses it normally, regularly and consistently.

[54] The Appellant is therefore not entitled to regular employment insurance benefits, since she does not qualify for benefits under section 7 of the Act. Specifically, the Appellant accumulated 618 hours during her qualifying period, whereas, according to the table in subsection 7(2) of the Act, she needed 665 hours.

[55] The appeal is dismissed.

Bernadette Syverin
Member, General Division—Employment Insurance Section

APPENDIX

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

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

(3) to (5) [Repealed, 2016, c. 7, s. 209]

(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.

Employment Insurance Regulations:

Rates of Unemployment

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.