



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. N. v Canada Employment Insurance Commission*, 2018 SST 1368

Tribunal File Number: GE-18-3344

BETWEEN:

P. N.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Gary Conrad

HEARD ON: December 17, 2018

DATE OF DECISION: December 19, 2018

DECISION

[1] The appeal is allowed.

OVERVIEW

[2] The Appellant applied for Employment Insurance (EI) benefits for self-employed people. After reviewing her application for benefits the Canada Employment Insurance Commission (Commission) determined that she did not have enough self-employed earnings in her qualifying period to qualify for benefits.

ISSUE

Does the Appellant have sufficient self-employed earnings in her qualifying period to qualify for benefits?

ANALYSIS

[3] A self-employed person qualifies for benefits if at least 12 months have expired since the day on which the person entered into an agreement referred to in subsection 152.02(1) with the Commission, the agreement has not been terminated or deemed to have been terminated; the person has had an interruption of earnings from their self-employment; and the person has had during their qualifying period an amount of self-employment earnings that is equal or greater than the following amount: \$6,000 or the amount fixed or determined in accordance with the regulations, if any, for that qualifying period, (subsection 152.07(1) of the *Employment Insurance Act* (Act)).

Does the Appellant have sufficient self-employed earnings in her qualifying period to qualify for benefits?

[4] Yes, the Appellant does have sufficient self-employed earnings in her qualifying period to qualify for benefits, as she has \$53,908.17 of self-employed earnings in her qualifying period and only required \$6,947.00 to qualify.

[5] The Commission submitted that the qualifying period of the Appellant corresponds to the calendar year prior to the claim; January 1, 2017, to December 31, 2017, in the Appellant's case. The Commission submitted that in her qualifying period the Appellant must have earned \$6,947.00, but the information from the Canada Revenue Agency (CRA) states the Appellant's self-employed earnings are \$0.00 for her qualifying period.

[6] The Commission submitted that it appears from the evidence presented by the Appellant that she has submitted the required employment insurance premiums and that her self-employed earnings exceed the minimum needed to qualify for benefits.

[7] The Appellant testified that her initial submission to the CRA did not include the EI premium for both the employer and employee portion, so she asked her accountant to amend the information and send it in for reassessment. The Appellant testified her accountant faxed it in and it she waited some time before finding out the CRA never received it. She then had her accountant send in a hard copy to the CRA and a couple weeks later they got it; however the accountant had not asked them to reassess her taxes so they simply filed the information.

[8] The Appellant testified that it was also not clear whether or not she needed to send in a Schedule 13 form to the CRA to qualify for her EI benefits as neither her accountant, the CRA, or the Commission were clear in their information to her about whether it as required. The Appellant testified that eventually she got the Schedule 13 form, filled it out herself, and had her accountant review it and then she sent it in just to be on the safe side.

[9] The Appellant stated in her notice of appeal that she meets all the requirements to qualify for benefits for a self-employed person as she entered into an agreement with the Commission on May 9, 2017, and her application for benefits was on May 21, 2018, which is more than 12 months since the day she entered into the agreement. The Appellant stated that the agreement has not been terminated and as can be seen on her supplied tax information her self-employment earnings are above the required minimum of \$6,947.00. The Appellant further stated that she has experienced an interruption of earnings as she had a child on March 22, 2018.

[10] The Appellant stated in her notice of appeal that the only reason the information from the CRA was showing that she had \$0.00 in self-employment earnings was due to her accountant

failing to complete the proper paperwork, and she has sent in the proper paperwork to the CRA for a reassessment but it will take until the beginning of 2019 to be completed.

[11] The Tribunal notes that the Commission has not disputed that the Appellant is a self-employed person, that at least 12 months have expired since the day she entered into an agreement referred to in subsection 152.02(1) with the Commission, that the agreement has not been terminated or deemed to have been terminated, that the Appellant has had an interruption of earnings from their self-employment, and that the Appellant has submitted the required employment insurance premiums, and will therefore focus its analysis on whether the Appellant had the necessary amount of self-employment earnings in her qualifying period to qualify for benefits, the sole disputed issue.

[12] The qualifying period of a self-employed person is the year immediately before the year during which their benefit period begins, (subsection 152.08(1) of the Act).

[13] The Tribunal finds that as the Appellant applied for benefits in 2018, her qualifying period was corrected calculated by the Commission as January 1, 2017 to December 31, 2017, and notes the Appellant did not dispute her qualifying period.

[14] The Tribunal further finds that it accepts the information supplied by the Commission that the Appellant was required to have earned a minimum of \$6,947.00 in self-employment earnings in her qualifying period to qualify for benefits and notes the Appellant did not dispute this.

[15] The Tribunal notes that while the Commission submitted that that it appears from the evidence presented by the Appellant that she has submitted the required employment insurance premiums and that her self-employed earnings exceed the minimum needed to qualify for benefits, they further submitted that they must rely on the information provided by the CRA and that information shows the self-employed earnings value of the Appellant at \$0.00.

[16] The Tribunal finds that while the Commission may be, or feel they are, bound by the information provided by the CRA in regard to the Appellant's self-employed earnings, the Tribunal is not bound as such. The Tribunal notes that paragraph 90(1)(c) giving the CRA the

power to determine earnings states that it relates to insurable earnings, and does not list self-employment earnings.

[17] In reviewing the information supplied by the Appellant regarding her self-employment income for the year 2017, specifically her Schedule 13 form and her amended T4, which lists net self-employment income of \$53,908.17, the Tribunal finds that the Appellant does meet the minimum requirement of self-employed earnings in her qualifying period as she required \$6,947.00 and the Schedule 13 and amended T4 show that she earned \$53,908.17.

[18] The Tribunal finds that as the only issue of the Appellant's qualification for benefits for a self-employed person in dispute was whether she had the necessary amount of self-employed earnings in her qualifying period, and as the Tribunal has determined she does, the Tribunal finds that the Appellant does qualify for benefits pursuant to subsection 152.07(1) of the Act.

CONCLUSION

[19] The appeal is allowed. The Tribunal finds that the Appellant does qualify for benefits pursuant to subsection 152.07(1) of the Act as she has \$53,908.17 in self-employed earnings in her qualifying period and she was only required to have \$6,947.00 to qualify.

Gary Conrad

Member, General Division - Employment Insurance Section

| | |
|-----------------------|-------------------|
| HEARD ON: | December 17, 2018 |
| METHOD OF PROCEEDING: | Teleconference |
| APPEARANCES: | P. N., Appellant |