



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *D. D. v Canada Employment Insurance Commission*, 2019 SST 809

Tribunal File Number: GE-18-3821

BETWEEN:

D. D.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Catherine Frenette

HEARD ON: January 23, 2019

DATE OF DECISION: January 29, 2019

DECISION

[1] The appeal is dismissed.

OVERVIEW

[2] On September 12, 2018, the Appellant applied for sickness benefits, and a benefit period was established on September 9, 2018. The Canada Employment Insurance Commission (Commission) granted the Appellant 15 weeks of sickness benefits. However, the Appellant disputed the number of weeks awarded because the 15 weeks of benefits are not enough considering his medical condition.

[3] The Tribunal must determine the number of weeks of sickness benefits to which the Appellant is entitled.

ISSUE

[4] Did the Appellant receive the maximum number of weeks of sickness benefits?

ANALYSIS

[5] Once a benefit period is established, benefits are payable for each week of unemployment that falls in the benefit period, subject to the established maximum number of weeks (section 12(1) of Canada's *Employment Insurance Act* (Act)).

[6] The maximum number of weeks for which sickness benefits may be paid in a benefit period is 15 (section 12(3)(c) of the Act).

Did the Appellant receive the maximum number of weeks of sickness benefits?

[7] The Appellant was diagnosed with lung cancer, and he had to have several chemotherapy and radiotherapy treatments. According to the Appellant, those treatments required more than 15 weeks of medical leave.

[8] The 15 weeks of sickness benefits ended on December 23, 2018, despite the fact that the Appellant's doctor put him on medical leave until March 2019. The Appellant testified that, even

though his treatments had ended, he was recovering. During that time, the treatments he had received continued working against the cancer.

[9] The Appellant will have an iodine-based scan to reassess his condition. In March 2019, his doctor will then be able to let him know about the next steps.

[10] The Appellant does not have wage-loss insurance to cover the period from December 23, 2018, to March 2019.

[11] The Appellant asks the Tribunal to show compassion and to make an exception to the Act, which he considers harsh toward people with cancer. This is indeed an emotionally and financially stressful time, and the Appellant is asking for Employment Insurance assistance.

[12] Furthermore, the Appellant is of the view that the number of weeks of benefits should be assessed on a case-by-case basis because each situation requires a different amount of time.

[13] According to the Commission, the Appellant received the maximum number of weeks of sickness benefits under the Act. As a result, the Tribunal does not have the authority to award the Appellant more weeks.

[14] The Tribunal is of the view that the Appellant has benefited from the maximum number of weeks under the Act.

[15] The Appellant would have preferred that the Tribunal go against the Act to grant him more weeks of benefits because of his medical condition. The Tribunal deeply sympathizes with the Appellant, but neither the Act nor the case law grant it such authority. The Tribunal is bound by the Act as it is written and cannot give a decision that goes against it.

[16] The Federal Court of Appeal has confirmed this principle in *Brown v Canada (Attorney General)*, 2010 FCA 148.

[17] The Appellant received 15 weeks of sickness benefits in accordance with the maximum number of weeks under the Act. Therefore, the Tribunal cannot grant additional weeks of sickness benefits (*Brown, supra*).

CONCLUSION

[18] The appeal is dismissed.

Catherine Frenette
Member, General Division – Employment Insurance Section

HEARD ON:	January 23, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	D. D., Appellant