



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *L. L. v Canada Employment Insurance Commission*, 2019 SST 242

Tribunal File Number: GE-18-3873

BETWEEN:

L. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Normand Morin

HEARD ON: February 6, 2019

DATE OF DECISION: February 8, 2019

DECISION

[1] The appeal is dismissed. The Tribunal finds that the Appellant, L. L., did not accumulate the number of hours of insurable employment required to establish a benefit period for Employment Insurance, under section 7 of the *Employment Insurance Act* (Act). The Appellant does not qualify to receive benefits under section 7 of the Act.

OVERVIEW

[2] On June 20, 2017, after working for the employer X (employer) from March 16, 2011, to November 7, 2016, the Appellant applied for benefits (sickness benefits) effective February 26, 2017. She then worked for X from May 10 to 12, 2018. On October 26, 2018, the Appellant filed a claim for (regular) benefits effective October 21, 2018. The Respondent, the Canada Employment Insurance Commission (Commission), determined that the Appellant had not accumulated the required number of hours of insurable employment to be entitled to Employment Insurance benefits. The Appellant argued that she was entitled to benefits. She indicated that she had contributed to the Employment Insurance plan. The Appellant explained that she had not used her unemployment because she received wage-loss benefits from November 15, 2016, to August 31, 2018, and that she had paid back the Employment Insurance benefits that she received. On December 22, 2018, the Appellant challenged the Commission's reconsideration decision.

ISSUE

[3] The Tribunal must determine whether the Appellant qualifies to receive benefits under section 7 of the Act.

[4] To reach that finding, the Tribunal must answer the following question:

- a) Did the Appellant accumulate the required number of hours of insurable employment to be entitled to Employment Insurance benefits under section 7 of the Act and does she qualify to receive benefits?

ANALYSIS

[5] To be entitled to Employment Insurance benefits, a claimant must satisfy certain conditions defined in section 7 of the Act. One of these conditions states that a claimant must have acquired, in their qualifying period, at least the number of hours of insurable employment set out in the table appearing in section 7(2)(b) of the Act, based on the regional rate of unemployment that applied to the claimant (section 7(2)(b) of the Act).

[6] The table provides the following indications:

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

[7] Section 8(1) of the Act stipulates that the qualifying period of an insured person is the shorter of (a) the 52-week period immediately before the beginning of a benefit period under section 10(1); and (b) the period that begins on the first day of an immediately preceding benefit

period and ends with the end of the week before the beginning of a benefit period under section 10(1).

[8] Section 10(1) of the Act indicates that a benefit period begins, depending on the case, 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.

[9] The Federal Court of Appeal (Court) confirmed the principle that the requirements under section 7(2) of the Act do not allow any discrepancy and provide no discretion (*Lévesque*, 2001 FCA 304).

[10] The Court also confirmed the principle that section 8(1) of the Act stipulates two possibilities concerning the qualifying period and expressly sets out that the shorter of the two periods must be retained (*Long*, 2011 FCA 99).

[11] In *Pannu* (2004 FCA 90), the Court declared that the *Employment Insurance Act* is an insurance plan and, like other insurance plans, claimants must meet the conditions of the plan to obtain benefits.

[12] In this case, the Appellant did not qualify to receive benefits under section 7 of the Act. The evidence on file indicates that the Appellant accumulated 16 insurable hours during her qualifying period from February 26, 2017, to October 20, 2018, while she needed 700 insurable hours to be entitled to benefits.

[13] The Appellant explained that she received Employment Insurance benefits (special benefits) after she stopped working for the employer, for medical reasons, as of November 7, 2016. She indicated that she experienced psychological harassment at work for almost two years. The Appellant specified that she did not return to work, because the employer told her that she could not do so (GD2-1 to GD2-20 and GD3-48 to GD3-53).

[14] The Appellant indicated that she had repaid the Employment Insurance benefits she had received for the period from February 26, 2017, to June 17, 2017, because she was paid wage-loss benefits from November 15, 2016, to August 31, 2018. She explained that this situation

meant that she had not used her unemployment, although she had contributed to the Employment Insurance plan. She submitted that she was entitled to receive benefits (GD2-1 to GD2-20 and GD3-48 to GD3-53).

[15] The Appellant stated that she did not have other periods of employment after she stopped working at X on November 7, 2016, except for the period at X, from May 10 to 12, 2018 (GD3-42, GD3-43, and GD3-52).

[16] A Record of Employment dated September 12, 2018, indicates that the Appellant worked for the employer X from May 10, 2018, to May 12, 2018, inclusively, and that she stopped working for that employer after she had voluntarily left (code E – quit). The record indicates that the Appellant had 16 insurable hours during the period indicated (GD3-42 and GD3-43).

[17] A document entitled [translation] “Attestation Certificate,” dated October 21, 2018, indicates that, in the economic region bearing code 11 (Québec region), the unemployment rate between October 7, 2018, and November 3, 2018, that is the period during which the Appellant’s claim took effect (October 21, 2018), was 3.9% and that 700 hours of insurable employment were needed to establish a benefit period (GD3-44 and GD3-45).

[18] The Commission explained that it established the Appellant’s qualifying period from February 26, 2017, to October 20, 2018, according to section 8(1)(b) of the Act because a previous claim effective February 26, 2017, had been established for her (GD3-46 and GD4-3).

[19] Based on the table in section 7(2) of the Act and on the unemployment rate of 3.9% in the Appellant’s area, the Commission determined that the minimum number of hours required for the Appellant to be entitled to receive Employment Insurance benefits was 700 hours. The Commission explained that the evidence shows that the Appellant accumulated just 16 hours of insurable employment during her qualifying period. The Commission determined that the Appellant had failed to show that she was entitled to receive Employment Insurance benefits according to section 7(2) of the Act (GD4-3).

[20] The Commission explained that the hours of insurable employment that the Appellant accumulated at the employer X could not be considered because they were worked before the

beginning of the Appellant's qualifying period, that is before February 26, 2017, and that they served to establish a previous benefit period for which the Appellant received sickness benefits (GD4-4).

[21] The Commission explained that, even though the Appellant alleged that she experienced harassment from her employer and that her employer did not agree to her resuming work when she recovered, there was no possible exception in the entitlement conditions (GD2-3, GD3-48, and GD4-4).

[22] The Tribunal considers that the Appellant accumulated a total of 16 insurable hours from the employer X during her qualifying period, but she needed 700 hours to be entitled to benefits according to the table in section 7(2) of the Act.

[23] The situation the Appellant described regarding the psychological harassment she stated she experienced at the employer X cannot change the conditions she must satisfy to be entitled to benefits.

[24] Even though the Appellant argued that she contributed to the Employment Insurance plan when she worked, that situation does not automatically entitle her to receive Employment Insurance benefits during a period of unemployment. A claimant must meet all requirements of the Act to be able to be entitled to these benefits, including the required conditions in section 7 of the Act (*Pannu*, 2004 FCA 90).

[25] In summary, based on the evidence on file, the Tribunal finds that the Appellant did not accumulate enough hours of insurable employment during her qualifying period to enable her to receive benefits. The Appellant accumulated 16 hours of insurable employment during her qualifying period, but 700 hours of insurable employment were required.

[26] The Tribunal finds that the Appellant failed to show that she qualified to receive benefits, under section 7 of the Act.

[27] The appeal is without merit on this issue.

CONCLUSION

[28] The appeal is dismissed.

Normand Morin
Member, General Division – Employment Insurance Section

HEARD ON:	February 6, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	L. L., Appellant