



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. H. v Canada Employment Insurance Commission*, 2019 SST 1388

Tribunal File Number: GE-19-1642

BETWEEN:

C. W.

Appellant/Claimant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Catherine Shaw

HEARD ON: May 1, 2019

DATE OF DECISION: May 3, 2019

DECISION

[1] The appeal is dismissed. I find the Canada Employment Insurance Commission (Commission) correctly determined the Claimant's benefit period and she does not meet any of the statutory requirements to have her benefit period extended.

OVERVIEW

[2] The Claimant works as a substitute teacher. She made an initial claim for regular employment insurance benefits at the end of the school year and received benefits during her period of unemployment. She made a claim for maternity and parental benefits later that year and her claim was renewed on the same benefit period, as she did not have enough hours of insurable employment to establish a new benefit period. The Commission informed the Claimant that she could only be paid parental benefits up until the end of her benefit period and that her benefit period would expire before she received her maximum entitlement to parental benefits.

[3] The Claimant requested a reconsideration of the duration of her benefit period on the basis that she received incomplete information from the Commission prior to making her claim for maternity and parental benefits, which affected her ability to establish a new benefit period. The Commission maintained its decision and the Claimant now appeals to the Social Security Tribunal (Tribunal) to allow her to extend her benefit period so she can receive her maximum entitlement to parental benefits.

ISSUE

[4] Can the Claimant's benefit period be extended beyond June 15, 2019?

ANALYSIS

[5] Benefits are paid to claimants for each week of unemployment that falls in a benefit period.¹ The length of a benefit period is 52 weeks, unless a claimant qualifies for an extension.²

¹ *Employment Insurance Act*, subsection 12(1)

² *Employment Insurance Act*, section 10

[6] The following facts are not in dispute. The Claimant made an initial claim for regular benefits on June 26, 2018, and established a benefit period effective June 17, 2018. She received 15 weeks of regular benefits from June 24, 2018 to October 13, 2018. The Claimant made a claim for maternity and parental benefits effective December 16, 2018. The Claimant had not worked sufficient hours of insurable employment to establish a new benefit period since making her initial claim for benefits in June 2018, which resulted in her maternity and parental benefits being paid as part of her already established benefit period. The Claimant was entitled to 15 weeks of maternity benefits and 35 weeks of parental benefits under this claim.³

[7] The Commission submits the Claimant's benefit period was determined to be June 17, 2018 to June 15, 2019. On reconsideration, it stated she does not meet any of the provisions that enable an extension to the benefit period and as such, she is not able to receive more than 11 weeks of parental benefits before the end of her claim on June 15, 2019.

[8] I note that the Commission incorrectly advised the Claimant on January 30, 2019, that the reason she could not receive her maximum entitlement to parental benefits was due to a limitation in the maximum number of weeks of entitlement for a claimant receiving regular and special benefits within one benefit period.⁴ The Commission clarified in a conversation with a third party on February 6, 2019, that the reason the Claimant cannot be paid her maximum entitlement to parental benefits is due to the expiry of her benefit period on June 15, 2019, not a limitation on her number of weeks of entitlement.

[9] The Claimant submits that she received misinformation from the Commission, which affected her ability to establish a new benefit period and therefore, her ability to receive her maximum entitlement to parental benefits. The Claimant stated to the Tribunal that she visited a Service Canada office in October 2018 to inquire about her upcoming claim for maternity benefits. She stated the Service Canada agent advised her that "as long as she had 600 hours in the previous 52 weeks, there would be no issue." The Claimant stated she relied on this advice and ensured that she had the required hours in the past year before she made her claim for maternity benefits. However, she said she was unaware that some of her hours had been "used

³ The Claimant's claim for maternity and parental benefits indicates she elected the "standard" parental benefit option, which provides for a maximum of 35 weeks of parental benefit payments

⁴ This limitation is based in subsection 12(6) of the *Employment Insurance Act*

up” by her previous claim for regular benefits in June 2018, and that these hours could not be used to establish her new benefit period. As a result, her claim for maternity and parental benefits were paid on her previously established benefit period, which meant that she would only receive 11 weeks of parental benefits before the benefit period ended, rather than her maximum entitlement of 35 weeks.

[10] The Claimant has not challenged the Commission’s determination of her entitlement to benefits, but requests an extension of her benefit period to permit her to receive her maximum entitlement to parental benefits due to the unique circumstances of her claim.

[11] The Claimant stated the Commission’s decision to end her benefit period prior to receiving her maximum entitlement to parental benefits has caused her a tremendous amount of stress and financial worry. Her spouse is unable to share any unused entitlement to parental benefits, as he is a full-time student and does not have enough hours to qualify for benefits. Additionally, the Claimant’s benefit period expires at the end of the school year, which means that she is unable to return to her normal occupation as a substitute teacher at that time. She stated this puts her in a precarious employment situation and she will have to get short-term employment over the summer which may affect her future claims for employment insurance. She also stated that the process of getting the correct information from the Commission and pursuing the appeal process has been time-consuming, which took her away from spending time with her newborn child.

[12] At the hearing, the Claimant confirmed that her circumstances do not fit within one of the statutory exemptions that would allow her to qualify for an extension of her benefit period.

[13] I find the Commission correctly determined that the Claimant’s benefit period expires on June 15, 2019, and that she is not entitled to any extension of that benefit period. The Claimant established her benefit period on June 17, 2018, and the length of a benefit period is 52 weeks, unless the Claimant qualifies for an extension. As the Claimant admits that she does not meet any of the conditions required to qualify for an extension to this benefit period, her benefit period is June 17, 2018 to June 15, 2019.

[14] As the Claimant's benefit period ends on June 15, 2019, I find that no further benefits can be paid on her claim after that date.

[15] I acknowledge the Claimant received information from Service Canada that was not suitable for her circumstances, in that it did not allow her to maximize her claim for benefits. I also understand her frustration that the end of her benefit period is especially poorly timed, given the nature of her work, and that her family circumstances prevent her spouse from claiming any portion of her entitlement to parental benefits. I truly sympathize with the Claimant's circumstances, but there is no legal basis to grant an extension to her benefit period when she does not meet the requirements set out in the *Employment Insurance Act*—even if she was given incorrect information regarding her claim. In dealing with cases where the resulting decision may seem unfair on its face, the Federal Court of Appeal has found:

...rigid rules are always apt to give rise to some harsh results that appear to be at odds with the objectives of the statutory scheme. However, tempting as it may be in such cases (and this may well be one), adjudicators are permitted neither to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning.⁵

While the result may be harsh, I must follow the law and render decisions based on the relevant legislation and precedents set by the courts.

CONCLUSION

[16] The appeal is dismissed.

Catherine Shaw

Member, General Division - Employment Insurance Section

HEARD ON:	May 1, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	C. W., Appellant/Claimant

⁵ *Canada (Attorney General) v. Knee*, 2011 FCA 301