



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *T. H. v Canada Employment Insurance Commission*, 2019 SST 844

Tribunal File Number: GE-19-1631

BETWEEN:

T. H.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: John Gillis

HEARD ON: May 6, 2019

DATE OF DECISION: May 16, 2019

DECISION

[1] The appeal is dismissed. T. H. does not meet the criteria for additional weeks of regular benefits under Pilot Project No. 21.¹

OVERVIEW

[2] T. H. (who I shall call the Claimant) applied for employment insurance regular benefits in September of 2018. She later learned of an employment insurance pilot project that increased the number of weeks of benefits to eligible seasonal workers. To be eligible for the increase number of weeks of benefits, the seasonal workers must meet certain criteria. The Canada Employment Insurance Commission (who I shall call the Commission) decided that the Claimant did not meet all of the criteria to be eligible for the increased number of weeks of benefits. The Claimant appealed the Commission's decision.

ISSUES

[3] The issues to be decided are:

Issue #1 – Did the Claimant establish a benefit period in the appropriate time period?

Issue #2 – Did the Claimant reside in a prescribed region?

Issue #3 – Did the Claimant receive regular benefits on at least three benefit periods in the 260 weeks before her benefit period began?

Issue #4 – Did at least two of the Claimant's benefit periods begin around the same time of year?

ANALYSIS

[4] The Government of Canada created a pilot project to test the effectiveness of a mechanism that targeted certain seasonal workers and to test the outcomes of increasing the number of benefit weeks of those seasonal workers.² The pilot project is called "Pilot Project No.

¹ Section 77.992 of the *Employment Insurance Regulations*

² Section 77.992(1) of the *Employment Insurance Regulations*

21.” The pilot project provides for an increase in the number of benefit weeks paid to certain seasonal workers. Seasonal workers are only eligible for the increased benefit weeks if they meet a strict set of criteria set out in the legislation. A seasonal worker seeking the increased benefit weeks must prove that they meet all four of the criteria.

[5] One of the specific criteria applicable to Pilot Project No. 21 is the seasonal worker being paid regular benefits during three previous benefit periods in a certain timeframe. The paid benefits must be regular benefits. The term “regular benefits” is a defined term in the legislation.³ Regular benefits do not include special benefits, benefits paid as work-sharing benefits⁴ or benefits paid while a claimant is attending a training course.⁵ Regular benefits and benefits paid by virtue of section 25 of the *Employment Insurance Act* (the *Act*) are two distinct types of benefits. To be eligible for Pilot Project No. 21, the seasonal worker, in addition to meeting all other criteria, must have been paid regular benefits during three benefit periods in a specific timeframe. Being paid benefits by virtue of section 25 of the *Act* are not regular benefits.

Issue 1: Did the Claimant establish a benefit period in the appropriate time period?

[6] Yes. The Claimant established her benefit period within the appropriate time period.

[7] In order for a claimant to be eligible under Pilot Project No. 21, the claimant must establish a benefit period between August 5, 2018 and May 30, 2020.⁶

[8] The Claimant lost her job on September 22, 2018 and applied for employment insurance benefits on September 26, 2019. The Commission submits that the Claimant’s claim for employment insurance benefits was effective September 23, 2018. September 23, 2018 is after August 5, 2018 and before May 30, 2020. I find that the Claimant established her benefit period in the appropriate time period to be considered for Pilot Project No. 21 increased benefit weeks. As stated earlier, an individual seeking Pilot Project No. 21 benefits must satisfy all four of the eligibility criteria.

³ Section 2(1) of the *Employment Insurance Act*

⁴ Section 24 of the *Employment Insurance Act*

⁵ Section 25 of the *Employment Insurance Act*

⁶ Section 77.992(2)(a) of the *Employment Insurance Regulations*

Issue 2: Did the Claimant reside in a prescribed region?

[9] Yes. The Claimant resided in one of the prescribed regions.

[10] In order for a claimant to be eligible under Pilot Project No. 21, the claimant must be ordinarily resident in a prescribed region on the date when the benefit period was established.⁷

[11] The Claimant's address has remained consistent throughout her application for benefits. The Claimant testified that she lived at that address when she lost her job and when she applied for employment insurance benefits. She testified that she still lives at that address. The Commission submits that the Claimant lives in one of the prescribed regions. I find that the Claimant was ordinarily resident in a prescribed region to be considered for Pilot Project No. 21 increased benefit weeks. Again, as stated earlier, an individual seeking Pilot Project No. 21 benefits must satisfy all four of the eligibility criteria.

Issue 3: Did the Claimant receive regular benefits on at least three benefit periods in the 260 weeks before her benefit period began?

[12] No. The Claimant did not receive regular benefits on at least three benefit periods in the 260 weeks before her benefit period began.

[13] In order for a claimant to be eligible under Pilot Project No. 21, the claimant must have established three benefit periods during which regular benefits were paid or payable. These previous benefit periods must have all been established in the 260 weeks before the beginning of the present benefit period.⁸

[14] The applicable period for consideration of previous benefit periods in the Claimant's case is between September 29, 2013 and September 23, 2018 (being 260 weeks). The Claimant submitted her Service Canada Account details that showed that the Claimant had a number of previous employment insurance benefit claims. The claims which were paid during the applicable period for consideration of Pilot Project No. 21 were paid between:

⁷ Section 77.992(2)(b) of the *Employment Insurance Regulations*

⁸ Section 77.992(2)(c) of the *Employment Insurance Regulations*

August 18, 2013 and March 15, 2014,

July 10, 2016 and July 8, 2017, and

September 3, 2017 and February 3, 2018.

[15] The Claimant testified that she received employment insurance benefits during these three benefit periods. The Commission submits that the Claimant did have these three benefit periods during the 260 weeks before her present benefit period. I find that the Claimant did establish at least three benefit periods in the 260 weeks before the beginning of her present benefit period.

[16] In addition to proving that she established three benefit periods in the 260 weeks before the beginning of her present benefit period, the Claimant must establish that regular benefits were paid or payable during those three benefit periods. The Claimant submits that she was paid regular benefits during each of the three benefit periods. The Claimant submitted pages from her Service Canada Account – Past Claim Details that stated the number of weeks that regular benefits were paid during each of the previous benefit periods. The Commission submits that the Claimant was only paid regular benefits on two of the previous benefit periods. The Commission submits that the Claimant was paid “training benefits” during the other previous benefit period and, as such, the Claimant does not meet the criteria for Pilot Project No. 21. The Commission submitted a Previous Claim printout for the Claimant’s 2013/2014 benefit period. The Previous Claim printout states that the Claimant was only paid “training benefits” between August 18, 2013 and March 15, 2014. Section 2(1) of the *Act* specifically excludes from regular benefits those benefits paid by virtue of section 25 of the *Act*. Section 25 benefits are those paid while a claimant is attending a training course

[17] The Claimant testified that she did return to college in 2013 and did receive employment insurance benefits while she was in school. She also testified that the only information she had about the nature of the benefits she was paid during each of her benefit periods was the details from her Service Canada Account. The Claimant said that she did not have the Previous Claim printout provided by the Commission in this appeal. Based on the Claimant’s testimony that she did attend college in 2013 and received employment insurance benefits during that time and the

details of her previous claim showing that those paid benefits were “training benefits”, I find that the Claimant was paid benefits by virtue of section 25 of the *Act* between August 18, 2013 and March 15, 2014. I also find that the Claimant was not paid regular benefits during this period.

[18] While the Claimant did have three benefit periods established in the relevant time frame, she was not paid regular benefits during all three benefit periods. Rather, she was paid benefits by virtue of section 25 of the *Act* during one of the three benefit periods. In that the Claimant was not paid regular benefits during all three benefit periods, she has not proven that she has met the criteria to be eligible for Pilot Project No. 21. As stated earlier, an individual seeking Pilot Project No. 21 benefits must satisfy all four of the eligibility criteria.

Issue 4: Did at least two of the Claimant’s benefit periods begin around the same time of year?

[19] As the Claimant did not satisfy the preceding criteria, namely the receipt of three periods of regular benefits, it is not necessary for me to consider the remaining criteria for eligibility for Pilot Project No. 21 benefits.

[20] The Claimant has not established that she satisfies all four of the criteria for eligibility for Pilot Project No. 21 benefits. She is not entitled to receive those increased number of benefit weeks contemplated by the pilot project legislation.

CONCLUSION

[21] The appeal is dismissed.

John Gillis
Member, General Division – Employment Insurance

HEARD ON:	May 6, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	T. H., Appellant