



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: M. D. v Canada Employment Insurance Commission, 2019 SST 805

Tribunal File Number: GE-19-2286

BETWEEN:

M. D.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Josée Langlois

HEARD ON: June 27, 2019

DATE OF DECISION: July 4, 2019

DECISION

[1] The appeal is dismissed. I find that the Appellant is not entitled to receive benefits from December 16, 2018, to January 14, 2019, and from January 22, 2019, to April 19, 2019, because she was outside Canada.

OVERVIEW

[2] The Appellant filed a claim for sickness benefits on December 23, 2018. She lived in Costa Rica from December 16, 2018, to April 18, 2019, except for the week of January 15 to 21, 2019. She submits that, while there, she received necessary high-dose vitamin C injections. The Canada Employment Insurance Commission (Commission) found that the Appellant was not entitled to receive benefits from December 16, 2018, to January 14, 2019, and from January 22, 2019, to April 19, 2019, because she was outside Canada. I must determine whether the Appellant was entitled to receive benefits while she was outside Canada.

ISSUE

[3] Was the Appellant entitled to receive benefits while she was outside Canada?

ANALYSIS

Was the Appellant entitled to receive benefits while she was outside Canada?

[4] A claimant is not entitled to receive benefits for any period during which they are not in Canada.¹

[5] Employment Insurance benefits are not payable to persons that are not in Canada, unless the *Canada Employment Insurance Regulations* ([Regulations](#)) provide otherwise.²

[6] Section 55 of the [Regulations](#) provides for certain exceptions, including if a claimant is outside Canada to undergo medical treatment that is not available in the claimant's area of

¹ *Employment Insurance Act* ([Act](#)), s 37(b); *Canada (Attorney General) v Picard*, 2014 FCA 46.

² *Canada (Attorney General) v Gibson*, 2012 FCA 166; *Canada (Attorney General) v Bendahan*, 2012 FCA 237.

residence. However, the illness alone does not constitute an exception to the application of the [Act](#).

[7] The Appellant was outside Canada from December 16, 2018, to April 18, 2019, except for the week of January 15 to 21, 2019. She explained that she was living at her secondary residence in Costa Rica during that period.

[8] The Appellant stated that she has been living with ankylosing spondylitis—a form of arthritis—for years and that it is very painful. In September 2018, a doctor diagnosed her with microscopic colitis, so she stopped working as a flight attendant for Air Canada due to illness.

[9] In December 2018, the Appellant agreed to try high-dose vitamin C injections, a treatment that had already been suggested to her in Costa Rica, but that is not recognized nor available in Québec. She testified that this treatment gave her energy and significantly reduced her pain.

[10] The Appellant testified that she had tried several treatments to reduce her pain, including acupuncture and homeopathy, and even a medication that had been prescribed to her in Québec. However, in times of distress, the Appellant takes oral cortisone to reduce her pain. Currently, the Appellant is trying a new treatment to reduce her pain over a longer period.

[11] The Commission submits that the Appellant is not entitled to receive benefits from January 22 to April 18, 2019, because she was outside Canada. Although it acknowledges that the Appellant could have been in Costa Rica to receive high-dose vitamin C treatments, the Commission argues that this treatment is not recognized in Canada and cannot constitute an exception under section 55(1)(a) of the Regulations.

[12] Although the Appellant was sick during that period, I note that the exception provided under section 55(1)(a) of the Regulations can apply only when a claimant is outside Canada to undergo medical treatment that is not available in their area of residence. That is not the case here.

[13] The Appellant was outside Canada from December 16, 2018, to January 14, 2019, and from January 22 to April 19, 2019. She testified that she lives at her secondary residence in Costa Rica intermittently but every year. The Appellant was already in Costa Rica and that is why she decided to try the high-dose vitamin C to reduce her pain. However, the Appellant did not go to Costa Rica specifically to undergo treatment. Even after she was diagnosed with microscopic colitis, the Appellant did not change her plans to go to Costa Rica, and she went at the same time as previous years.

[14] The high-dose vitamin C treatment is not recognized in Québec, but, as the Appellant testified, this treatment is available at some private medical clinics.

[15] To receive Employment Insurance benefits, the Appellant must meet the requirements set out in the [Act](#). Unfortunately, none of the exceptions provided under section 55 of the Regulations apply in her case for the period from December 16, 2018, to January 14, 2019, and from January 22, 2019, to April 19, 2019, because the Appellant did not show there was an urgent need to undergo this specific treatment.

[16] The Appellant's doctor had simply told her to continue this treatment if it helped her. Even though I understand that the high-dose vitamin C gave the Appellant energy and was able to ease her pain, this was noted after she received the treatment. At the time she received it, there was no urgent need to undergo this specific treatment. In this case, section 37(b) of the [Act](#) must apply.³

[17] I understand the Appellant's arguments and sympathize with the pain she experiences with her illness, but she did not go to Costa Rica specifically to receive this treatment, nor did she demonstrate that receiving this treatment was urgent and necessary. The Appellant made a personal choice to try this treatment, and I do not have the authority to exempt the Appellant from the application of the Act no matter how sympathetic the circumstances.

[18] I find that the disentitlement imposed in the Appellant's case is justified because she was outside Canada from December 16, 2018, to January 14, 2019, and from January 22, 2019, to

³ *Canada (Attorney General) v Gibson*, 2012 FCA 166; *Canada (Attorney General) v Bendahan*, 2012 FCA 237.

April 19, 2019, and that, during that period, no exception provided under section 55 of the Regulations can apply.

CONCLUSION

[19] The appeal is dismissed.

Josée Langlois
Member, General Division – Employment Insurance Section

HEARD ON:	June 27, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	M. D., Appellant