



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. M. v Canada Employment Insurance Commission*, 2019 SST 930

Tribunal File Number: GE-19-2315

BETWEEN:

A. M.

Claimant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Bernadette Syverin

HEARD ON: August 6, 2019

DATE OF DECISION: August 7, 2019

DECISION

[1] I dismiss the appeal because the Claimant did not have an agreement for self-employed persons with the Commission in place for one year prior to applying for parental benefits. Therefore, I conclude, the Claimant did not meet the requirements to establish a claim for parental benefits for self-employed persons.

OVERVIEW

[2] The Claimant filed a claim for parental employment insurance for self-employed persons. The Canada Employment Insurance Commission (Commission) denied the claim as it concluded that the Claimant had not entered into an agreement with the Commission for self-employed persons for at least one year prior to filing his application for benefits. The Commission maintained this decision following reconsideration and the Claimant appealed this decision to the Social Security Tribunal.

ISSUE

[3] Does the Claimant qualify for parental employment insurance benefits for self-employed persons?

ANALYSIS

[4] The *Employment Insurance Act* (Act) requires that self-employed persons who wish to participate in coverage for maternity, parental, sickness and compassionate leave benefits enter into an agreement with the Commission.¹ Prior to qualifying for these benefits, self-employment persons who enter into an agreement must wait a minimum of twelve months from the date they enter into the agreement.²

[5] In this case, the Claimant is self-employed and he entered into an agreement for self-employed persons with the Commission on January 15, 2019. As such, the Claimant had to wait twelve months before he could qualify for parental benefits for self-employed persons. I find that

¹ According to section 152.02 of the *Employment Insurance Act*.

² According to section 152.07(1) of the *Employment Insurance Act*.

the Claimant does not qualify for parental benefits for self-employed persons because he filed his claim for parental benefits on April 23, 2019, which is less than twelve months from the day that he entered into the agreement for self-employed persons.

[6] I understand from the Claimant's testimony that his child was born in April 2019; he does not plan to have any more children and that he entered into the agreement to receive parental benefits, which would allow him to spend time with his newborn child. However, I am not empowered to waive a statutory requirement regarding the eligibility to receive benefits.³ In this case, among other requirements, waiting for twelve months before applying for benefits is a condition of eligibility to parental benefits for self-employed persons, and the Claimant does not meet this requirement.

[7] The Claimant testified that he understands that the agreement with the Commission has to have been in place for one year prior to applying for benefits, but he asked me to make an exception in his case. I am sympathetic to the Claimant's circumstances; however, there is no exception and no room for discretion. I cannot ignore, refashion, circumvent, rewrite, nor interpret the Act in a manner that is contrary to its plain meaning even in the interest of compassion.⁴

[8] For all of these reasons, I find that the Claimant did not have an agreement for self-employed persons with the Commission in place for one year prior to applying for parental benefits. Therefore, I conclude, the Claimant did not meet the requirements of the Act to establish a claim for parental benefits for self-employed persons.

CONCLUSION

[9] I dismiss the appeal.

Bernadette Syverin
Member, General Division - Employment Insurance Section

³ *Wegener v. Canada (Attorney General)*, 2011 FC 137.

⁴ *Canada (Attorney General) v. Knee*, 2011 FCA 301.

HEARD ON:	August 6, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. M., Claimant