



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. I. v Canada Employment Insurance Commission*, 2019 SST 927

Tribunal File Number: GE-19-2727

BETWEEN:

R. I.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Lilian Klein

HEARD ON: August 6, 2019

DATE OF DECISION: August 20, 2019

DECISION

[1] I am dismissing the appeal. The Appellant (the Claimant) does not have enough insurable hours in her qualifying period to receive maternity and parental benefits.

OVERVIEW

[2] When the Claimant applied for maternity and parental benefits, she had 235 hours of insurable hours in her qualifying period. The Commission found that she did not qualify for these benefits since she needed at least 600 hours. She is asking me to make an exception in her case to allow her to use hours from an earlier period to help her qualify for benefits.

ISSUE

[3] **Does the Claimant have enough insurable hours to qualify for maternity and parental benefits?**

ANALYSIS

[4] To establish a benefit period for maternity and parental benefits, you have to meet two qualifying conditions. You must first have an interruption of earnings from your employment. You must also have accrued at least 600 hours of insurable employment in your qualifying period.¹ The qualifying period is the 52 weeks before a benefit period would start.² You have the burden of proof to show that you meet all the conditions to receive benefits.³

[5] The Claimant applied for maternity and parental benefits on June 4, 2019. She had accrued 235 insurable hours in her 52-week qualifying period from June 3, 2018, to June 1, 2019. The Commission told her that she needed at least 600 hours to qualify for special benefits such as maternity and parental benefits. The Claimant did not dispute the dates of her qualifying period or the number of insurable hours she accrued within this period.

¹ S 93(1) of the *Employment Insurance Regulations* (EI Regulations).

² S 8(1) of the EI Act. The qualifying period is either (a) the 52 weeks before the benefit period begins, or (b) the period that begins on the first day of an immediately preceding benefit period and ends right before the new benefit period starts. The shorter of these two scenarios applies (*Long v Attorney General of Canada*, 2011 FCA 99).

³ *Attorney General of Canada v Terrion*, 2013 FCA 97.

[6] In certain situations, a qualifying period can be extended. One of these situations is where a claimant was unable to work and accrue insurable hours for part of this period due to sickness.⁴

[7] However, the Claimant did not argue that any of these situations applied to her. She had a different reason for not being able to accrue additional hours during her qualifying period. She left her job in Toronto on July 13, 2018, to follow her spouse to Windsor where he had a new employment opportunity. She could not find a job there, so she worked across the border in the US. She confirmed that she had no other insurable hours during her qualifying period.

[8] The Claimant argues that she should be able to make up her current shortfall in insurable hours by using hours she accrued while working in Toronto before her benefit period began. Her friends told her she could bank insurable hours for future use. However, you cannot use hours from before a qualifying period starts to help you qualify for benefits.⁵

[9] The Claimant asked me to make an exception in her case since it will be hard for her to manage without benefits. I sympathize with her situation, but I do not have the authority to interpret the legislation in any other way than its plain meaning.⁶ The EI is an insurance plan.⁷ As with other insurance plans, you have to meet all the conditions and timelines. There are no exceptions to the qualifying conditions for receiving benefits, even in cases of financial hardship.⁸

[10] The Claimant cannot establish a benefit period for maternity and parental benefits since she does not have enough insurable hours to receive these benefits.

CONCLUSION

[11] The appeal is dismissed.

Lilian Klein

Member, General Division - Employment Insurance Section

⁴ These circumstances are listed in s 8(2) of the EI Act.

⁵ *Haile v Attorney of Canada*, 2008 FCA 193.

⁶ *Attorney General of Canada v Knee*, 2011 FCA 301.

⁷ *Pannu v Attorney General of Canada*, 2004 FCA 90

⁸ *Attorney General of Canada v Levesque*, 2001 FCA 304.

HEARD ON:	August 6, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	R. I., Appellant