



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. P. v Canada Employment Insurance Commission*, 2019 SST 1311

Tribunal File Number: GE-19-3227

BETWEEN:

M. P.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Glen Johnson

DATE OF DECISION: October 30, 2019

REASONS AND DECISION

DECISION

- [1] I find that the appeal must be summarily dismissed. This means I am dismissing the appeal without a hearing because the appeal does not have a reasonable chance of success.

OVERVIEW

- [2] The Claimant wants more employment insurance (EI) benefits than what the Commission paid her. She wants more because she has paid into EI for many years. She says that it is unfair that injuries from a car accident made her unable to work more hours to qualify for more EI.
- [3] The Commission says that she does not qualify for more EI benefits because the time ran out on the period during which EI benefits are payable under the law.
- [4] The Claimant filed a second claim for EI benefits. The Commission found that they could not pay her benefits under her new claim. She does not qualify for more EI because she had not worked any hours since she became unemployed.
- [5] I find that the law does not allow for more weeks of payment of EI benefits under her first claim. She does not qualify for EI benefits under her second claim because she did not work any hours since first becoming unemployed. Employment insurance legislation does not allow me to over-ride or re-write the plain meaning of its language.

PRELIMINARY

- [6] I asked the Claimant, in writing, if she wanted to make any further statements about her appeal because I was thinking of dismissing her appeal without a hearing

(section 22, *Social Security Tribunal Regulations*). She was given a reasonable time to make further statements, but she did not reply.

ISSUE

[7] Does the appeal have a reasonable chance of success?

ANALYSIS

[8] I must dismiss the appeal if I am satisfied that it has no reasonable chance of success (subsection 53(1), *Department of Employment and Social Development Act*).

Does the appeal have a reasonable chance of success?

[9] No; I must dismiss the appeal because it does not have a reasonable chance of success.

[10] There is no reasonable chance of success where I find that it is plain and obvious from the file that the appeal will not succeed, no matter what information or arguments are presented at a hearing (*Lessard-Gauvin v. Canada (Attorney General)*, 2013 FCA 147).

[11] The Claimant made her first claim for EI benefits on May 17, 2017. She got EI benefits. She re-applied for EI on June 29, 2019 because she was still unemployed.

[12] I find that the Claimant cannot get more weeks of EI on her first claim because under the law the time ran out for collecting any more weeks of EI benefits. She is not allowed any EI on her second claim because she did not work any more hours since her first EI claim.

[13] The Claimant wants more weeks of EI benefits than what she got under her first claim. She also says that she should get EI paid under her second claim. She says that she

should get more because she has paid into EI for many years. She says that it is unfair that she could not work more hours to qualify for more weeks of EI because of injuries from a car accident.

[14] The Claimant worked to April 27, 2017 and she filed a first claim for regular EI on May 17, 2017. She has not worked since April 27, 2017.

[15] In her first claim, she got 1 week of regular EI benefits and then 15 weeks of sickness EI because she could not work due to car accident injuries. She got the most sickness EI allowable to her under the law (subsection 12(3), *EI Act*).

[16] Under the law, the Claimant cannot get more weeks of EI on her first claim. The time ran out for collecting any more weeks of EI benefits.

[17] The Claimant's benefit period for her first EI claim is from April 30, 2017 to April 27, 2019. A benefit period is the period of time during which EI is payable for her claim. Further EI benefits are not payable after the end of her benefit period. She must file another application after working more hours to see if she can qualify for EI again.

[18] The Claimant's benefit period was longer than the normal 52 weeks. The benefit period increased to 104 weeks. This is because she got severance pay from her employer when she left her job (subsection 10(14), *EI Act*).

[19] She re-applied for EI benefits on June 29, 2019, with a qualifying period of June 24, 2018 to June 22, 2019. She must work enough hours in her qualifying period to show that she could qualify for EI benefits. The qualifying period is 52 weeks before she re-applied, beginning on the Sunday (subsection 8(1)(a), *EI Act*).

[20] To get EI benefits on her second claim she needed 700 hours of qualifying work (subsection 7(2), *EI Act*). She cannot get EI benefits under her second claim. She did not have any hours of employment during her qualifying period from June 24, 2018 to June 22, 2019, so

[21] I am sympathetic toward the Claimant. She says that it is unfair that she should not get more EI benefits. She was injured in a car accident and was not able to work to try to qualify for more weeks of EI benefits. She also says she paid into the EI program for many years and it is unfair that she cannot get more weeks of EI.

[22] I must apply EI law in its plain language. I cannot over-ride or re-write it. I do not have the power to make exceptions. The law says that I **must** dismiss an appeal without a hearing if I am satisfied that it has no reasonable chance of success.

CONCLUSION

[23] The appeal is clearly bound to fail and it has no reasonable chance of success.

[24] The appeal is summarily dismissed.

Glen Johnson
Member, General Division - Employment Insurance Section