



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. G. v Canada Employment Insurance Commission*, 2019 SST 1436

Tribunal File Number: GE-19-3744

BETWEEN:

S. G.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Amanda Pezzutto

HEARD ON: November 15, 2019

DATE OF DECISION: November 22, 2019

DECISION

[1] I am dismissing the appeal.

OVERVIEW

[2] The Claimant applied for employment insurance benefits. The Claimant collected caregiver benefits and then switched to regular benefits. Based on the number of hours she had worked, the Commission decided that she could collect up to 36 weeks of regular employment insurance benefits. When her benefit period ended, she had only collected 31 weeks of regular benefits. However, the Claimant had left the country for a few weeks during her benefit period and did not collect benefits during the time she was out of the country. The Claimant asked the Commission to extend her benefit period so that she could collect the last few weeks of regular benefits. The Commission decided that the Claimant did not meet any conditions to extend her benefit period. The Commission refused to pay the last weeks of regular benefits. The Claimant appealed to the Tribunal.

[3] I am dismissing the appeal. The Claimant can only collect benefits during her benefit period. She does not meet any of the conditions to extend her benefit period. Even if the Commission gave her incorrect advice, it does not mean that she can receive benefits if the law does not allow it.

ISSUES

[4] Issue 1 – Should the Claimant have a longer benefit period?

[5] Issue 2 – Is the Claimant entitled to benefits if the Commission gave her misleading advice?

ANALYSIS

[6] When you apply and qualify for employment insurance benefits, the Commission establishes a benefit period. A benefit period is the window of time in which you can receive employment insurance benefits. You can only claim employment insurance benefits for weeks within the benefit period.¹ A benefit period is usually 52 weeks long.²

[7] In some cases, the Commission can extend a benefit period. If you want a benefit period extension, you have to show that you could not collect employment insurance benefits during a week of your benefit period for one of these reasons:

- You were in jail or a similar institution, and found not guilty of the offense;
- You were receiving separation money because your employment ended;
- You were receiving worker's compensation benefits; or,
- You were receiving payments under a provincial plan to protect pregnant or breastfeeding mothers. These are sometimes called "preventative withdrawal payments."³

Issue 1: Should the Claimant have a longer benefit period?

[8] The Claimant does not meet any of the conditions for a longer benefit period. She cannot extend her benefit period.

[9] The Claimant told the Commission that she did not meet any of the conditions for a benefit period extension. At the hearing, she said the same thing. She had not been in jail. She did not get separation money from her former employer. She did not get worker's compensation benefits. She did not get preventative withdrawal payments.

¹ Section 9 of the *Employment Insurance Act*.

² Section 10(2) of the *Employment Insurance Act*.

³ Section 10(10) of the *Employment Insurance Act*. There are other grounds for benefit period extensions in sections 10(12) to 10(13.03). However, these grounds only apply to claimants asking for parental benefits or special benefits only.

[10] The Commission can only extend the benefit period if the law allows it. I also have to follow the law. I cannot make a decision that goes against the *Employment Insurance Act*. I have to interpret the law according to its plain meaning.⁴ The Claimant does not meet any of the conditions for a benefit period extension and so she cannot have a longer benefit period.

Issue 2: Is the Claimant entitled to benefits if the Commission gave her misleading advice?

[11] A Commission agent's mistake does not mean that the Claimant can receive benefits. The Claimant can only receive benefits if the law says so.

[12] The Claimant argues that several Commission agents gave her misleading advice. She asked for advice about leaving the country and collecting benefits. She spoke to several different agents and they all told her that she would not lose benefits if she left the country. They told her that she could simply start collecting benefits again after she returned to Canada. The Claimant argues that she would have changed her travel plans if she knew that she would lose benefits because of her travel. She argues that the Commission made a mistake and so she should be allowed to receive the weeks of benefits she missed because of the Commission's mistake.

[13] The Claimant acted carefully by asking the Commission for advice. She thought she was following the Commission agents' advice. I believe that she would have made different plans if she had received different advice. I accept that the Commission agents' advice was misleading. However, this does not mean that the Claimant can receive benefits.

[14] Sometimes Commission agents make mistakes. They might give a person incorrect or misleading information about their benefits. Even if a Commission agent makes a mistake, this does not mean that a person can receive benefits. The Commission can only pay benefits if the law allows them to pay benefits. A Commission agent's mistake does not override the Commission's obligation to follow the law.⁵

⁴ Both the Commission and the Tribunal must follow the law. I cannot change the law or interpret the law in a way that is contrary to its plain meaning. The Federal Court of Appeal says this at paragraph 9 of its decision *Canada (Attorney General) v. Knee*, 2011 FCA 301.

⁵ In *Canada (Attorney General) v. Shaw*, 2002 FCA 325, the Federal Court of Appeal explains that misinformation from the Commission does not give a claimant relief from the provisions of the *Employment Insurance Act*. Similarly, in *Granger v. Canada Employment Insurance Commission*, A-684-85, the Federal Court of Appeal

[15] The Claimant can only collect employment insurance benefits during her benefit period. She does not meet any of the conditions to extend her benefit period. The law does not allow her to receive benefits after her benefit period has already ended. Even though Commission agents gave her misleading advice, she cannot receive benefits if the law does not allow it.

CONCLUSION

[16] I am dismissing the appeal.

Amanda Pezzutto

Member, General Division - Employment Insurance Section

HEARD ON:	November 15, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	S. G., Appellant

explains that Commission agents do not have the power to amend the law. An individual Commission agent cannot promise to pay benefits in a way that is contrary to the law.