Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

[TRANSLATION]

Citation: *M. L. v Canada Employment Insurance Commission*, 2019 SST 1609

Tribunal File Number: GE-19-4035

BETWEEN:

M. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Yoan Marier

DATE OF DECISION: December 17, 2019

Canada

REASONS AND DECISION

DECISION

[1] The appeal is summarily dismissed.

OVERVIEW

[2] The Appellant filed an initial claim for Employment Insurance benefits on September 20, 2019. After reviewing the application, the Canada Employment Insurance Commission (Commission) determined that the Appellant did not meet the requirements to receive benefits because he had not accumulated enough hours of insurable employment during his qualifying period.

[3] The Appellant now disputes the Commission's decision before the Tribunal. He argues that he should be entitled to benefits because he has paid Employment Insurance contributions for a long time. Furthermore, he argues that he did not apply for regular benefits when his employment ended in November 2015 and that he should be entitled to his unused benefits.

ISSUE

[4] Should the appeal be summarily dismissed?

ANALYSIS

[5] I find that this appeal must be summarily dismissed for the following reasons.

[6] I am required to summarily dismiss an appeal if I am satisfied that the appeal has no reasonable chance of success.[1]

[7] A summary dismissal is appropriate when it is obvious that the appeal is clearly bound to fail.[2]

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[1] *Department of Employment and Social Development Act*, s 53(1).
[2] *Lessard-Gauvin v Canada (Attorney General)*, 2013 FCA 147.

[8] In the case of a summary dismissal, I must therefore ask this: Is it obvious, on reading the file, that the appeal is bound to fail, no matter what arguments may be presented at the hearing?

[9] To be entitled to regular Employment Insurance benefits, a claimant must meet certain conditions. One of these conditions requires the claimant to have accumulated a certain number of hours of insurable employment during their qualifying period. This number of hours of insurable employment is between 420 and 700, depending on the unemployment rate in the economic region where the claimant lives.[3]

[10] The qualifying period is generally the 52-week period before the claim for benefits. However, the qualifying period may be extended when a claimant is incapable of working due to health reasons.[4] In this file, the qualifying period was established from September 17, 2017, to September 14, 2019, that is, 104 weeks. That is the maximum permitted under the Act.[5]

[11] Since the Appellant has not worked since 2015, the Commission determined that the Appellant had no hours of insurable employment during his qualifying period, when he needed at least 700 to be entitled to benefits.

[12] In his notice of appeal to the Tribunal, the Appellant does not dispute the number of hours of insurable employment established by the Commission. Instead, the Appellant argues that he should be entitled to benefits because he has contributed to the EI program for a long time. Furthermore, he argues that he did not apply for regular benefits in 2015 and that he should be entitled to his unused benefits.

[13] Unfortunately, the fact that the Appellant contributed to the program for a long time does not mean he is automatically entitled to benefits. He must meet certain basic conditions to qualify, like all claimants. Furthermore, there is no provision in the Act allowing for unclaimed benefits to be deferred for nearly four years.

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[3] *Employment Insurance Act* (Act), s 7.
[4] Act, s 8(2)(a).
[5] Act, s 8(7).

[14] In accordance with section 22 of the *Social Security Tribunal Regulations*, I sent the Appellant a letter indicating that his appeal would be summarily dismissed. The letter invited the Appellant to explain why, according to him, his appeal should not be summarily dismissed.

[15] In his response, the Appellant said that he intended to defend himself and pointed to the Employment Insurance program's mission and the fact that he contributed to this program for many years. He failed to raise any new issues that could give his appeal a reasonable chance of success.

[16] Based on the evidence before me, I am forced to find that the appeal is clearly bound to fail because the Appellant did not accumulate enough hours of insurable employment during his qualifying period to meet the minimum requirements to be entitled to Employment Insurance benefits. As a result, I cannot decide in favour of the Appellant, no matter what arguments he may present at a hearing.

[17] The Federal Court of Appeal has confirmed on several occasions that the requirements of the Act regarding the number of hours of insurable employment do not allow any discrepancy and provide no discretion.[6]

[18] Furthermore, I do not have the authority to re-write the Act or to interpret it in a manner that is contrary to its plain meaning. As a result, I cannot make the Appellant entitled to benefits if this entitlement is not provided for by the Act or by the Regulations. When I make decisions, I am required to limit myself to the law in force.[7]

CONCLUSION

[19] I find that the appeal has no reasonable chance of success. As a result, the appeal is summarily dismissed.

Yoan Marier
Member, General Division – Employment Insurance Section

[6] *Canada (Attorney General) v Lévesque*, 2001 FCA 304.
[7] *Canada (Attorney General) v Knee*, 2011 FCA 301.