



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. S v Canada Employment Insurance Commission*, 2020 SST 180

Tribunal File Number: GE-19-4419

BETWEEN:

A. S.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Amanda Pezzutto

HEARD ON: January 16, 2020

DATE OF DECISION: January 21, 2020

DECISION

[1] I am dismissing the Claimant's appeal.

OVERVIEW

[2] The Claimant worked as a self-employed contractor. She applied for employment insurance benefits for self-employed workers and requested maternity benefits. The Claimant had not entered into an agreement with the Commission to contribute employment insurance premiums as a self-employed worker. The Canada Employment Insurance Commission (Commission) decided that the Claimant did not qualify to receive benefits for self-employed workers. The Claimant asked the Commission to reconsider its decision. The Commission did not change its decision. The Claimant appealed to the Tribunal.

[3] I am dismissing the Claimant's appeal. The Claimant did not enter into a self-employment agreement with the Commission a year before she applied for benefits. She does not meet the basic conditions to qualify for benefits for self-employed workers. She does not qualify for maternity benefits.

ISSUE

[4] I must decide whether the Claimant qualifies to receive employment insurance benefits for self-employed workers. This means I must decide whether she meets the qualifying conditions.

ANALYSIS

[5] Self-employed workers may claim special benefits. This means that self-employed workers can claim maternity and parental benefits.¹ Self-employed workers must show that they qualify to receive benefits.

[6] Self-employed workers do not use hours to qualify for employment insurance benefits. Self-employed workers qualify for employment insurance benefits by first entering into an

¹ Sections 152.04 and 152.05 of the *Employment Insurance Act*.

agreement with the Commission at least 12 months before they claim benefits. After they have entered into an agreement for at least one year, self-employed workers must earn a minimum amount of earnings in order to qualify for benefits.²

[7] The agreement is a necessary part of qualifying for benefits for self-employed workers. Once a self-employed worker enters into an agreement with the Commission, they become responsible for paying employment insurance premiums.³

Does the Claimant qualify for benefits for self-employed workers?

[8] The Claimant does not qualify for benefits for self-employed workers. She had not entered into an agreement with the Commission before she applied for benefits.

[9] The Claimant argues that she did not understand the qualifying conditions for benefits for self-employed workers. She argues that she has now asked the Commission to enter into an agreement for self-employed workers. She asks for employment insurance benefits on humanitarian grounds.

[10] The Commission argues that the Claimant has not had an agreement for at least a year before she applied for benefits. The Commission argues that the Claimant does not meet the basic qualifying conditions for benefits for self-employed workers.

[11] The Claimant is a newcomer to Canada. She arrived in in Canada in June 2019 and found a job in July 2019. She worked from July 29 to December 16, 2019. She worked as a self-employed contractor. She did not pay employment insurance premiums on her income. She did not accumulate insurable hours or earnings in her job. At the hearing, she said that she did not have any prior work experience in Canada. This was her first and only job in Canada.

[12] The Claimant applied for employment insurance maternity benefits on October 25, 2019. The Claimant and the Commission agree that the Claimant did not enter into an agreement for self-employed workers before she applied for benefits.

² Section 152.07 of the *Employment Insurance Act*.

³ Section 152.21 of the *Employment Insurance Act*.

[13] The law is clear. In order to qualify for benefits for self-employed workers, claimants have to have an agreement with the Commission. The agreement has to be in place for at least one year before a claimant applies for benefits. This means that the Claimant has to show that she entered into an agreement by October 25, 2018. There is no evidence that the Claimant started an agreement in 2018.

[14] I understand that the Claimant has financial need, but I have to follow the law when I make my decisions. I cannot vary the requirements of the law for humanitarian reasons.⁴ The Claimant has not had an agreement with the Commission for at least one year. She does not qualify for benefits for self-employed workers.

[15] The Claimant has no other employment in Canada. She has not worked in insurable employment, and so she does not have insurable hours. In order to qualify for employment insurance benefits as an insured worker, the Claimant needs hours of insurable employment.⁵ The number of hours needed to qualify for benefits varies, but no one can qualify for benefits with zero hours of insurable employment. The Claimant has not provided a Record of Employment (ROE) and she has not proven that she has any hours of insurable employment. She does not qualify for employment insurance benefits for insured workers.

[16] I do not have the jurisdiction to make decisions about whether her work was insurable. Only the Canada Revenue Agency may make decisions about whether her employment was actually insurable.⁶ The Claimant may wish to speak to the Canada Revenue Agency for more information about insurability.

CONCLUSION

[17] I am dismissing the Claimant's appeal. The Claimant does not qualify for benefits for self-employed workers.

⁴ The Federal Court of Appeal says this at paragraph 9 of its decision *Canada (Attorney General) v. Knee*, 2011 FCA 301.

⁵ Section 7(2) of the *Employment Insurance Act*.

⁶ Section 90 of the *Employment Insurance Act*.

Amanda Pezzutto

Member, General Division - Employment Insurance Section

HEARD ON:	January 16, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. S., Appellant