



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *AW v Canada Employment Insurance Commission*, 2020 SST 1036

Tribunal File Number: GE-20-337

BETWEEN:

A. W.

Claimant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Gary Conrad

HEARD ON: March 25, 2020

DATE OF DECISION: March 27, 2020

DECISION

[1] The appeal is dismissed. I find the Claimant lives in the Southern Alberta region and with the unemployment rate in that region and her amount of insurable hours, she is entitled to 22 weeks of benefits.

OVERVIEW

[2] The Claimant applied for, and was granted, Employment Insurance (EI) benefits. The Canada Employment Insurance Commission (Commission) determined the Claimant was entitled to 22 weeks of benefits based on the unemployment rate in the economic region of Southern Alberta, where they determined the Claimant resided.

[3] The Claimant disagreed with this decision as she argued she does not reside in the economic region of Southern Alberta, but in the economic region of Calgary, where the unemployment rate is higher, so she should be entitled to more than 22 weeks of benefits. She requested the Commission reconsider their decision.

[4] After a review the Commission upheld their initial decision the Claimant resided in the economic region of Southern Alberta and was only entitled to 22 weeks of benefits.

[5] The Claimant appealed the decision of the Commission to the General Division of the Social Security Tribunal (Tribunal), where she was unsuccessful.

[6] The Claimant then appealed the decision of the Tribunal's General Division to the Tribunal's Appeal Division.

[7] The Appeal Division allowed the Claimant's appeal, finding the General Division erred in law by failing to determine whether the Claimant's location had been determined with certainty, and thus whether subsection 17(2) of the *Employment Insurance Regulations* (Regulations)¹, was applicable to the Claimant's situation. The Appeal Division also found the

¹ This section of the Regulations states if the Claimant resides so near to the boundaries of more than one region that it cannot be determined with certainty in which region the Claimant resides she should be considered to reside in the region of the boundary she is near that has the highest rate of unemployment.

General Division erred in law by failing to provide adequate reasons for why it preferred the Commission's assertions over the Claimant's evidence.

[8] The Appeal Division remitted the issue back to the General Division for reconsideration.

ISSUE

[9] I must determine in which EI region the Claimant resides and thus how many weeks of benefits the Claimant is entitled to.

ANALYSIS

Which region does the Claimant reside in?

[10] The Commission submits the Claimant lives in the economic region of Southern Alberta. The Commission submits they have proven the Claimant's location with certainty using geocoding. The Commission submits that geocoding is the process of converting an address into spatial data and associating exact geographical coordinates with that address to help find the coordinates of a place or address.

[11] The Commission submits they are following the legislation in relation to reviewing region boundaries as the last boundary review concluded in 2018. The Commission submits the legislation says the boundaries of the EI region of Calgary are determined using the *Standard Geographical Classification* of 1996, and while they do review the boundaries, as per the legislation, they have not made any changes to those boundaries, as the legislation only requires them to review the boundaries, not change the boundaries.

[12] The Claimant's husband submits the Claimant lives four kilometers within Calgary city limits. The Claimant's husband says that while the satellite picture provided by the Commission does accurately show the location of their house, that picture also clearly shows their house is in the middle of a large suburban area, i.e. well inside the city limits of Calgary.

[13] The Claimant's husband says the Commission admits they are using data from 1996, which is 24 years old, and vastly out of touch with the reality of where the city limits of Calgary

actually are, as Calgary has expanded significantly over the almost quarter of a century since the Commission updated their information.

[14] The Claimant's husband says the true issue is not where the Claimant lives, but that the Commission is not following the legislation and updating the information every five years as is required of them by law². The Claimant's husband says that due to this tens of thousands of people are excluded from EI benefits unfairly.

[15] The Claimant says if you look at more recent data, such as the 2016 census data, showing the Calgary city limits³ her residence is well within the city limits and this shows the information the Commission is using to determine where she lives is out of date and therefore invalid to determine her exact location.

[16] The Claimant says that her husband filed a claim before she did and using the exact same address, it was determined that her husband resided in the economic region of Calgary, so clearly she does as well.

[17] I understand the Claimant's argument she feels the Commission is using outdated information related to the city limits of Calgary as the information from 1996 is 24 years old. I also understand her confusion as looking at the image of her home provided by the Commission, it clearly shows the home in the middle of a residential subdivision. I also understand her confusion as her address is in Calgary, and she pays Calgary city taxes.

[18] I agree with the Claimant's assertion there would be large changes in the city of Calgary over the course of 24 years. I also accept the Claimant has an address in Calgary and pays taxes to the city of Calgary; however, even if the Claimant has a home address in Calgary, as nonsensical as it may seem, that does not mean she is located in Calgary for the purposes of EI benefits.

[19] The Commission freely admits they are using the boundaries of Calgary from 1996⁴ as the boundaries of the EI region of Calgary are based on that data. The Commission submits that

² Subsection 18(2) of the *Employment Insurance Regulations*

³ RGD4 - 5

⁴ RGD5-2

while the law says the boundaries are to be reviewed, and have been reviewed as of 2018, there is no requirement in the law to change the boundaries⁵. The Commission also submits they used the geographic data from the 1996 census to determine the Claimant's address is in the Southern Alberta region.

[20] The law defines a "Census Metropolitan Area" as a "census metropolitan area within the meaning of the Statistics Canada document entitled *Standard Geographical Calculation (SGC) 1996*."⁶

[21] In dividing the province of Alberta into EI regions the law says that the Calgary region consists of the Census Metropolitan Area of Calgary⁷.

[22] The law also states the Commission shall review, at least once every five years, the boundaries of the EI regions to determine if it is appropriate to make changes to those boundaries⁸.

[23] I find, that as per the law, the boundaries of Calgary are based on the *Standard Geographical Calculation (SGC) 1996*, and the Commission has not erred in using those boundaries for determining the Claimant lives in Southern Alberta.

[24] I further find the law does not demand the Commission alter those boundaries every five years, merely that they review them; the decision to change the boundaries is a choice, it is not mandated. I find the Record of Decision, dated September 17, 2018⁹, proves the boundaries of the economic regions have been reviewed in the last five years as the review ran from 2013-2018, therefore the Commission is following the requirements of the law regarding reviewing the boundaries.

[25] While I understand it is hard to believe the Commission has felt it unnecessary to make any changes to the boundaries of the EI region of Calgary for nigh on a quarter century, there is no imperative in the law for them to change the boundaries of an EI region; they have chosen, for

⁵ RGD5-3

⁶ Schedule I, section 1, of the *Employment Insurance Regulations*

⁷ Schedule I, subsection 10(1), of the *Employment Insurance Regulations*

⁸ Subsection 18(2) of the *Employment Insurance Regulations*

⁹ GD9-5

whatever reason, to not change the boundaries of Calgary, a choice the Commission is legally allowed to make.

[26] In looking at the satellite picture of the Claimant's home, which the Claimant's husband agreed accurately depicted the location of their home, it is very close to the boundary between the EI region of Calgary and the EI region of Southern Alberta.

[27] The law states that if a person resides so near to the boundaries of more than one region that it cannot be determined with certainty in which region the person resides, the regional rate of unemployment that applies to the person is the highest of the regional rates of those regions the person is near the boundaries of¹⁰.

[28] In considering the above section of law, I find it is not applicable in the Claimant's situation as the Claimant's location has been identified with certainty, and her residence is in the economic region of Southern Alberta.

[29] The Claimant has not argued her street address is incorrect or that her home is not where the Commission says its location is in their imagery¹¹. As the Claimant's husband asserts, it is not about where the Claimant's house is located, but the failure of the Commission to follow the law in using the correct data to determine the boundaries of the EI regions. As I have found the Commission has not failed to follow the law in using the data they did to determine the Claimant's location, and hence her EI region, and as geolocating involves using spatial data to find the exact geographical coordinates¹², and it was used to determine the Claimant's location and the boundary between the Calgary and Southern Alberta EI regions¹³ I find the Claimant's location has been determined with certainty.

[30] In considering the Claimant's argument, that her husband, who lives at the same address as her, was considered by the Commission to be in the EI region of Calgary when he applied for benefits, and thus she should be as well, I respectfully disagree.

¹⁰ Subsection 17(2) of the *Employment Insurance Regulations*

¹¹ RGD2-2

¹² GD4-1 and GD4-2

¹³ RGD2-2

[31] While the Commission may have decided differently in a different case, that decision is not binding on me. In reviewing the evidence of the Claimant's case, I have found that her location has been determined with certainty in the EI region of Southern Alberta.

[32] I find that while the Claimant may disagree with the economic region of Calgary not being expanded in such a way to include her residence during the quinquennial boundary reviews, I cannot change the law and alter the boundaries of an economic region. If she disagrees with the legislation that is an issue for Parliament, and she can speak to her Member of Parliament about it.

How many weeks of benefits is the Claimant entitled too?

[33] How many weeks of benefits a person is entitled to is determined by a combination of the unemployment rate in the economic region where they reside and the amount of hours of insurable employment that person has in their qualifying period¹⁴.

[34] The Commission submits the Claimant's qualifying period is from December 24, 2017, to December 22, 2018, as per the law¹⁵ and the Claimant accumulated 1136 hours in her qualifying period.

[35] The Commission says using geocoding shows the Claimant resides in the economic region of Southern Alberta¹⁶ and, since they have localized her address with certainty, the unemployment rate of Southern Alberta, 6.6%, must be applied and the Claimant's weeks of entitlement have been correctly determined.

[36] I find I accept the submissions from the Commission the Claimant's qualifying period is from December 24, 2017, to December 22, 2018, and that the Claimant accumulated 1136 hours in her qualifying period. I note the Claimant did not dispute these points.

¹⁴ Subsection 12(2) of the *Employment Insurance Act*

¹⁵ Paragraph 8(1)(a) of the *Employment Insurance Act*

¹⁶ RGD2 - 2

[37] As I have found the Claimant resides in the EI region of Southern Alberta, I find I accept the submission from the Commission the unemployment rate in that region was 6.6% at the time of the Claimant's application.

[38] In looking at the law, in a region with an unemployment rate of more than 6% but not more than 7%, I find the Claimant, with 1136 hours of insurable employment, is entitled too 22 weeks of benefits¹⁷.

[39] I completely understand the Claimant's frustration with her situation. I sympathize greatly, I truly do, but I cannot rewrite the law, or choose to ignore it, even if I disagree with it. The ability to alter the law rests with Parliament.

CONCLUSION

[40] The appeal is dismissed.

Gary Conrad

Member, General Division - Employment Insurance Section

HEARD ON:	March 25, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A.W., Claimant D. W., Representative for the Claimant

¹⁷ Schedule I of the *Employment Insurance Act*