



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. F. v Canada Employment Insurance Commission*, 2020 SST 616

Tribunal File Number: GE-20-1499

BETWEEN:

A. F.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: John Noonan

HEARD ON: June 4, 2020

DATE OF DECISION: June 9, 2020

OVERVIEW

[1] The Appellant, A. F., a worker in ON, was upon reconsideration by the Commission, notified that it was unable to increase his number of weeks of entitlement of Employment Insurance regular benefits from 32 to 52. The Commission is of the opinion that the Appellant had exhausted the maximum number of weeks of entitlement based on the area in which he was ordinarily resident at the time of his application. The Appellant asserts that he should receive an extension of his benefit period due to COVID-19 and the fact he has moved to an area with higher unemployment rates.. The Tribunal must decide if the Appellant's number of weeks of entitlement on his July 21, 2019 claim for benefits was determined correctly and if an extension is possible pursuant to subsection 12(2) of the Employment Insurance Act.

DECISION

[2] The Appeal is dismissed.

ISSUES

[3] Issue # 1: Was the Appellant ordinarily resident in the X District of ON at the time of his application for benefits?

Issue #2: Did the Commission correctly determine and pay out the number of entitlement weeks during his benefit period.

ANALYSIS

[4] The relevant legislative provisions are reproduced GD4.

[5] Subsection 12(2) of the Act states: (2) The maximum number of weeks for which benefits may be paid in a benefit period because of a reason other than those mentioned in subsection (3) shall be determined in accordance with the table in Schedule I by reference to the regional rate of unemployment that applies to the claimant and the number of hours of insurable employment of the claimant in their qualifying period.

[6] These rates are written into the law and this Member has no discretion to alter or adjust them in any way.

[7] Subsection 17(1)(a) of the Regulations states: 17. (1) Subject to subsection (2), the regional rate of unemployment that applies to a claimant is the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act a) for the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, for the region in which the claimant was ordinarily resident in that week.

Issue # 1: Was the Appellant ordinarily resident in the X District of ON at the time of his application for benefits?

[8] The only question is whether the Appellant should be considered ordinarily resident in the X district at the time of his application for benefits..

[9] He asserts that upon application he knew he was living in the X District but adds that later he moved to X, ON, an area of higher unemployment, for financial reasons.

[10] He believed that upon moving he could transfer his claim and receive the increased number of entitlement weeks.

[11] Having moved does not affect the determination of where the application was made. Moving to X has no bearing on the determination of ordinary residence.

[12] **CUB 54738** clearly states “ *Where a claim was first established in Vancouver, it was the regional rate of unemployment in Vancouver that determined the length of the claimant’s benefits even though she later relocated to Kelowna, where the regional rate of unemployment would have led to a longer benefit period.*”

[13] I find that, upon application for benefits, the Appellant was ordinarily resident in the X District and is therefore eligible for benefits based on his residency there.

Issue #2: Did the Commission correctly determine the number of entitlement weeks during her benefit period.

[14] I find the Commission correctly established that the Appellant, having been resident in the X District, was ordinarily resident there at the time of his application for benefits and, by law, and as per Schedule 1, was entitled to 32 weeks of benefits. These benefits were paid to the Appellant.

[15] Neither the Commission nor the Tribunal has any discretion regarding the conditions imposed by the Act and the Regulations.

[16] At his hearing, the Appellant testified that he is now collecting CERB monies but is concerned that if he is later deemed not eligible he will have to repay this money when he cannot afford to.

[17] It was explained that the Tribunal has, at this time, no authority to rule on CERB but I did state that if CERB monies obtained where the individual was not entitled, the repayment would be handled by CRA and they are reasonable in their terms and time frames.

CONCLUSION

[18] The appeal is dismissed.

John Noonan

Member, General Division - Employment Insurance Section

HEARD ON:	June 4, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. F., Appellant