



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. M. v Canada Employment Insurance Commission*, 2020 SST 647

Tribunal File Number: GE-20-1597

BETWEEN:

N. M.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: John Noonan

HEARD ON: June 23, 2020

DATE OF DECISION: June 25, 2020

OVERVIEW

[1] The Appellant, N. M., a worker presently living in Quebec, was upon reconsideration by the Commission, notified that it was unable to increase her number of weeks of entitlement of Employment Insurance regular benefits from 36. The Commission is of the opinion that the Appellant lived and worked in the Montreal Region of the Province of Quebec when she filed her claim. The Appellant asserts that she, having worked for a long period, should qualify for a greater number of entitlement weeks. The Tribunal must decide if the Appellant's number of weeks of entitlement on her November 24, 2019 claim for benefits was determined correctly pursuant to subsection 12(2) of the Employment Insurance Act.

DECISION

[2] The Appeal is dismissed.

ISSUES

- a) Issue # 1: Was the Appellant "ordinarily resident" in the Montreal Region, QC at the time of her application for benefits.

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

ANALYSIS

[3] The relevant legislative provisions are reproduced GD4.

[4] 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.

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

[6] 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 Montreal Region, QC at the time of her application for benefits.

[7] The only question is whether the Appellant should be considered ordinarily resident in the Montreal Region, QC at the time of her application for benefits.

[8] She stated on her application, that she was living in X, Quebec (part of the Montreal Region for EI purposes).

[9] I find that upon application for benefits, the Appellant was ordinarily resident in the Montreal Region and is therefore eligible for benefits based on her residency there.

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

[10] Yes.

[11] Based on the Appellant’s residential address at the time of her application for benefits on November 25, 2019, it was determined that she was in the Montreal Region which had, at that time a 5.7% unemployment rate which made her eligible for 36 weeks of benefits.

[12] The Appellant does not question that calculation but contends that, in the letter sent to her dated December 11, 2019 (GD3-20), she was told to **reapply** in the week of April 12, 2020. She did so and contends the rate of unemployment was much higher at that time due to Covid-19 therefore she should be eligible for increased weeks of benefits.

[13] It is unfortunate that the word **reapply** was used but earlier, in the same sentence, it is clearly stated that if she wanted to **renew** her claim once her allocation ended she would need to reapply.

[14] The Appellant here was renewing her claim of November 25, 2019 and not submitting a new claim for benefits therefore cannot take advantage of the April, 2020 rate of unemployment in her region to calculate the number of benefit weeks.

[15] I find the Commission correctly established that the Appellant, having been resident in X, Quebec, was ordinarily resident there at the time of her application for benefits and, by law, and as per Schedule 1, is entitled to 36 weeks of benefits.

[16] Neither the Tribunal or the Commission have any discretion or authority to override clear statutory provisions and conditions imposed by the Act or the Regulations on the basis of fairness, compassion, financial or extenuating circumstances.

CONCLUSION

[17] The appeal is dismissed.

John Noonan

Member, General Division - Employment Insurance Section

HEARD ON:	June 23, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	N. M., AppellantParty/Representative for the Added party