



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. M. v Canada Employment Insurance Commission*, 2020 SST 661

Tribunal File Number: GE-20-1616

BETWEEN:

A. M.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Angela Ryan Bourgeois

HEARD ON: July 2, 2020

DATE OF DECISION: July 3, 2020

DECISION

[1] The appeal is dismissed. The Appellant (Claimant) has not shown that he has worked enough hours¹ to qualify for employment insurance benefits.

OVERVIEW

[2] The Claimant applied for regular employment insurance benefits. The Canada Employment Insurance Commission (Commission) decided it could not pay him benefits because he had not worked enough hours to qualify.

[3] The Commission says the Claimant needs 700 hours to qualify but has none. The Claimant does not dispute this. The Claimant wants me to find that he qualifies for benefits even though he has no hours. He wants me to consider the reason he did not work during his qualifying period.

[4] I have to decide if the Claimant qualifies for benefits.

PROCEDURAL MATTERS

[5] At the start of the hearing, the Claimant advised that he was attending the teleconference hearing from a public location. I asked him if he wanted to continue with the hearing, or reschedule until he could attend privately. The Claimant confirmed it was okay to continue, so I proceeded with the hearing.

ISSUE

[6] Does the Claimant qualify for benefits?

ANALYSIS

[7] To receive employment insurance benefits, claimants have to prove² that they qualify.³ To qualify, claimants have to have worked a minimum number of hours within a certain timeframe.⁴ This timeframe is called the qualifying period.

¹ Specifically, the hours worked have to be hours of insurable employment: s 7 of the *Employment Insurance Act*. In this decision, when I use “hours,” I am referring to hours of insurable employment.

What is the Claimant's qualifying period?

[8] Generally, the qualifying period is the 52 weeks before a claimant's benefit period would start.⁵ (The benefit period is a different timeframe; it is when claimants can receive benefits.)

[9] The Commission says the Claimant's qualifying period was the usual 52 weeks, and went from February 24, 2019, to February 22, 2020. The Claimant does not dispute this and there is no evidence that causes me to doubt it. So, I accept as fact that the Claimant's qualifying period is from February 24, 2019, to February 22, 2020.

How many hours does the Claimant need to qualify for benefits?

[10] The Claimant needs at least 665 hours.

[11] Not all claimants need the same number of hours to qualify. The number depends on the regional rate of unemployment that applies to that claimant.⁶

[12] The regional rate of unemployment is the rate in the region where the Claimant ordinarily resides during the week the benefit period would start.⁷

[13] Based on the postal code the Claimant provided on his application for benefits, the Commission decided the Claimant's region was Toronto and that the regional rate of unemployment at the time was 5%.⁸ This means that the Claimant would need to have worked at least 700 hours in his qualifying period to qualify for benefits.⁹

[14] However, at the hearing, the Claimant testified that at the relevant time he was living between Montreal and Toronto.

² The Claimant has to prove this on a balance of probabilities which means it is more likely than not.

³ S 48 of the *Employment Insurance Act*.

⁴ S 7 of the *Employment Insurance Act*.

⁵ S 8 of the *Employment Insurance Act*.

⁶ S 7(2)(b) of the *Employment Insurance Act*; s 17 of the *Employment Insurance Regulations*.

⁷ S 17 and Schedule I of the *Employment Insurance Regulations*.

⁸ See page GD3-21.

⁹ S 7 of the *Employment Insurance Act* sets out a chart that tells us the minimum number of hours that a claimant needs depending on the different rates of unemployment.

[15] I asked the Commission for information about the rate of unemployment in Montreal at the relevant time. The Commission provided evidence that shows that the regional rate of unemployment for the region of Montreal was 6.1%.¹⁰ Given this unemployment rate, the Claimant would need to have worked at least 665 hours in his qualifying period to qualify for benefits.¹¹

[16] Therefore, whether the Claimant was living in the regions of Toronto or Montreal, to qualify for benefits he would need at least 665 hours during his qualifying period.

Does the Claimant have enough hours?

[17] No. He does not have enough hours to qualify. Since he did not work during his qualifying period, he has no hours.

[18] The Commission decided that the Claimant has no hours during his qualifying period. The Claimant does not dispute this. He testified that he did not work during his qualifying period. There is no evidence that makes me doubt this. Accordingly, I accept it as fact that the Claimant has no hours during his qualifying period.

[19] Since he would need at least 665 hours, but has none, he does not qualify for benefits.

I cannot consider mitigating circumstances or refer him to other programs.

[20] The Claimant argues that I have discretionary power to consider why he did not work enough hours. He says he has not been able to work because of criminal negligence and prosecution by police and Federal and Provincial Governments. He says he has been severely prejudiced by circumstances that required him to leave his job through no fault of his own. The Claimant says I should consider these mitigating circumstances when deciding whether he qualifies for benefits.

[21] Unfortunately, I have no discretionary power when it comes to deciding if the Claimant qualifies for benefits. Employment insurance is an insurance plan and, like other insurance plans, claimants have to meet terms to be paid benefits. In this case, the Claimant does not meet the

¹⁰ See page GD7-2.

¹¹ S 7 of the *Employment Insurance Act*.

requirements, so he does not qualify for benefits. While the Claimant's situation may be sympathetic, I cannot rewrite the law.¹²

[22] If I could not exercise discretion, the Claimant asked me to refer him to another program where he would not be stigmatized. He read about referrals on the Service Canada website. I do not have the authority to refer the Claimant to any programs. My jurisdiction is defined by the law, and allows me only to make decisions about employment insurance matters reconsidered by the Commission.¹³

CONCLUSION

[23] The Claimant has not proven that he has enough hours to qualify for benefits. I have no authority to change the law or consider mitigating circumstances. As such, his appeal is dismissed.

Angela Ryan Bourgeois
Member, General Division - Employment Insurance Section

HEARD ON:	July 2, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. M., Appellant

¹² *Pannu v Canada (Attorney General)*, 2004 FCA 90.

¹³ S 112 and s 113 of the *Employment Insurance Act*.