



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *RR v Canada Employment Insurance Commission*, 2020 SST 1102

Tribunal File Number: GE-20-892

BETWEEN:

R. R.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Yoan Marier

HEARD ON: July 22, 2020

DATE OF DECISION: July 23, 2020

DECISION

[1] The appeal is dismissed because the Appellant does not have enough hours of insurable employment in her qualifying period to receive Employment Insurance regular benefits.

OVERVIEW

[2] On February 12, 2017, the Appellant filed a claim for sickness benefits. Her claim was approved, and she received several weeks of benefits. Later, the Appellant asked for regular benefits. The Canada Employment Insurance Commission decided that the Appellant did not qualify for this type of benefit because she did not have enough hours of insurable employment in her qualifying period.

[3] The Appellant challenged this decision before the Tribunal's General Division. On May 30, 2018, the General Division dismissed the appeal. The Appellant then turned to the Tribunal's Appeal Division. It refused leave to appeal.

[4] The Appellant applied to the Federal Court for judicial review of the Appeal Division's decision. On February 5, 2020, the Federal Court allowed the application and referred the matter back to the Appeal Division.

[5] Following a settlement conference held on March 4, 2020, the Appeal Division, in turn, referred the matter back to the Tribunal's General Division for reconsideration.

ISSUE

[6] I have to decide whether the Appellant has enough hours of insurable employment in her qualifying period to receive Employment Insurance regular benefits.

ANALYSIS

[7] To qualify for Employment Insurance benefits, a claimant must meet certain conditions. One of these conditions requires the claimant to have a certain number of hours of insurable employment in their qualifying period.¹

[8] When a claimant applies for regular benefits (for example, after being laid off), this number of hours of insurable employment is between 420 and 700, depending on the unemployment rate in the economic region where the claimant lives.

[9] In the Appellant's case, given the unemployment rate in the region where she lives, she needed at least 665 hours of insurable employment² to receive regular benefits.

[10] The qualifying period is normally the 52-week period immediately before the date when the claim for benefits was filed.³ In this case, the qualifying period was determined to be from February 14, 2016, to February 11, 2017. There is nothing to suggest that the Appellant meets one of the requirements that could allow for an extension of her qualifying period.⁴

[11] The Canada Revenue Agency (CRA) has exclusive jurisdiction to decide issues regarding the insurability of employment or the number of hours of insurable employment a claimant has.⁵

[12] Since the Appellant is challenging the number of hours of insurable employment reported by her employer, the Commission asked the CRA to rule on this issue.

[13] On April 17, 2020, the CRA ruled that the Appellant had accumulated 605 hours of insurable employment in her job.⁶

¹ Section 7 of the *Employment Insurance Act* (Act).

² The unemployment rate in the X region was 6.7% when the claim was made—GD3-18.

³ Section 8(1)(a) of the Act.

⁴ Section 8(2) of the Act.

⁵ *Canada (Attorney General) v Romano*, 2008 FCA 117.

⁶ RGD5.

[14] On June 4, 2020, I asked the Tribunal Registry to send the Appellant a letter inviting her to make additional submissions regarding the chance of success of her appeal, in light of the CRA's ruling.⁷

[15] In response to that letter, the Appellant submitted part of the record in her application for judicial review, as well as certain documents meant to show the number of hours of insurable employment accumulated in her job. She also mentioned having had discussions with the CRA officer who made the April 17 ruling. According to the Appellant, the officer confirmed to her that he had made the ruling on the number of hours of insurable employment based on the information he had when reviewing the file.⁸

[16] After receiving the Appellant's submissions, I sent her another request for further information to see what her intentions were concerning what happened next.⁹ The letter was meant to determine whether the Appellant had initiated proceedings to appeal the CRA's ruling of April 17, 2020, or whether she intended to do so. The Appellant did not respond to the letter. I therefore decided to schedule a hearing to clarify these issues.

[17] At the hearing, the Appellant confirmed that she had not appealed the CRA's ruling and that she did not intend to do so, since she did not see what else she could say to the CRA that could get it to change the ruling of April 17, 2020.

[18] The Appellant also argued that I should consider her testimony and the documents she had submitted regarding the hours worked in her job to make a decision in her favour, despite the CRA's ruling.

[19] I have noted the documents that the Appellant submitted and her testimony; however, I am bound by the CRA's ruling, since this agency has exclusive jurisdiction to make a determination on the number of hours of insurable employment worked by a claimant.

⁷ RGD7.

⁸ RDG8 and RDG9.

⁹ RGD10.

[20] In other words, I do not have the authority to come to a different conclusion than the CRA on the issue of the number of hours of insurable employment.

[21] The only remedy available to the Appellant regarding the CRA's ruling would have been to appeal that ruling to the CRA's Appeal Division, as stated in the letter of April 17, 2020.¹⁰ However, despite my explanations at the hearing, the Appellant confirmed that she had not done so. It is also worth noting that the deadline for appealing the CRA's ruling has now passed.¹¹

[22] Therefore, I have to make this decision based on the information before me.

[23] The requirements set out in the Act regarding the number of hours of insurable employment do not allow any discrepancy and provide no discretion.¹² I cannot make an exception.

CONCLUSION

[24] Based on the evidence before me, I have no choice but to find that the Appellant does not have enough hours of insurable employment in her qualifying period to qualify for Employment Insurance regular benefits.

[25] This means the appeal is dismissed.

Yoan Marier
Member, General Division – Employment Insurance Section

HEARD ON:	July 22, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	R. R., Appellant

¹⁰ RGD5.

¹¹ According to RGD5-2, the time limit was 90 days from April 17, 2020.

¹² *Canada (AG) v Lévesque*, 2001 FCA 304.