



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *SF v Canada Employment Insurance Commission*, 2020 SST 1117

Tribunal File Number: GE-20-1904

BETWEEN:

S. F.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Josée Langlois

HEARD ON: September 28, 2020

DATE OF DECISION: October 4, 2020

DECISION

[1] The appeal is dismissed. I find that the Appellant is not entitled to receive Employment Insurance benefits from March 6, 2020, to July 7, 2020, because he was outside Canada during that period.

OVERVIEW

[2] The Appellant applied for benefits on September 22, 2019. He left Canada on December 1, 2019, to attend the funerals of his father and cousin in Cameroon. The Appellant was planning to return to Canada on March 5, 2020, but his return was delayed until July 7, 2020.

[3] On June 4, 2020, the Canada Employment Insurance Commission (Commission) informed the Appellant that it could not pay him benefits from December 2, 2019, to March 4, 2020, because he was outside Canada. The Appellant requested a reconsideration, and the Commission found that the Appellant could receive benefits from December 2, 2019, to December 8, 2019, because he was attending the funeral of a member of his immediate family. It then informed the Appellant that he was not entitled to receive benefits from December 9, 2019, to July 7, 2020, because he was outside Canada and was unavailable for work during that period.

[4] The Appellant understands that he is not entitled to receive benefits for the period he was outside Canada. However, he argues that he was scheduled to return to Canada on March 5, 2020, and that he did not return to Canada because of the pandemic. He does not dispute the disentitlement for the period from December 9, 2019, to March 5, 2020, but he argues that he is entitled from March 6, 2020, because he was supposed to be back in Canada.

[5] I have to determine whether the Appellant is entitled to receive benefits for the period outside Canada from March 6, 2020, to July 7, 2020.

ISSUE

[6] Is the Appellant entitled to receive benefits for the period outside Canada from March 6, 2020, to July 7, 2020?

ANALYSIS

Is the Appellant entitled to receive benefits for the period outside Canada from March 6, 2020, to July 7, 2020?

[7] Claimants are not entitled to receive benefits while outside Canada.¹

[8] The Appellant was in Cameroon and therefore outside Canada from December 2, 2019, to July 7, 2020.

[9] In some situations, a person can receive benefits even if they are outside Canada.² For example, when a person is outside Canada to attend the funeral of a member of their immediate family, the person can receive benefits for a period of not more than seven consecutive days.

[10] Since the Appellant was attending his father's funeral in Cameroon, the Commission considered that the Appellant could receive benefits from December 2, 2019, to December 8, 2019.

[11] The Appellant chose to extend his trip to Cameroon—he was planning to return to Canada on March 5, 2020.

[12] The Commission submits that the Appellant is not entitled to receive benefits from December 9, 2019, to July 7, 2020, because he was outside Canada during that period and no other exceptions to the general rule for claimants outside Canada apply in his case. According to the Commission, the changes made to the Act on March 15, 2020, because of COVID-19 do not apply to claimants who established a benefit period before that date, and, in the Appellant's case, the reason for his absence is not included in section 55 of the Regulations, the section that sets out exceptions to disentitlement.

[13] The Appellant disputes only the period from March 6, 2020, to July 7, 2020. At the hearing, he explained that, when he left Canada on December 2, 2019, he had an "open" plane ticket, meaning that there was no scheduled return date. He was planning to return to Canada on March 5,

¹ Section 37(b) of the *Employment Insurance Act* (Act). This principle is explained in the following decisions: *Attorney General of Canada v Picard*, 2014 FCA 46; *Attorney General of Canada v Gibson*, 2012 FCA 166; and *Attorney General of Canada v Bendahan*, 2012 FCA 237.

² Section 55 of the Regulations.

2020, but the mourning process was not over and there were still procedures to be completed in the chieftdom. He then apparently contacted the airline to book a flight between March 15, 2020, and March 30, 2020. The airline reportedly reserved a seat for him for March 30, 2020. On March 30, 2020, the Appellant was unable to leave Cameroon because of the COVID-19 pandemic, and he returned to Canada on July 7, 2020.

[14] While the Appellant argued to the Commission that he had to extend his stay because of the pandemic and that the situation was out of his control, the reality is that, on March 5, 2020, the Appellant was not ready to return to Canada, since he wanted to participate in the entire mourning process for his father in Cameroon. The Appellant took steps to return to Canada between March 15, 2020, and March 30, 2020. Although he did not leave Cameroon on March 30, 2020, up until that point, the Appellant had been held back in Cameroon because of procedures related to his father's death. Whether the Appellant wanted to return to Canada on March 5, 2020, or after March 15, 2020, does not matter, since section 55 of the Regulations does not apply in his case.

[15] Regarding the period from March 30, 2020, to July 7, 2020, although the Appellant was ready to return to Canada then and was unable to do so because of the pandemic, his situation is not covered by section 55(1) of the Regulations. In other words, the Regulations were not changed to include an exception that would allow the Appellant to receive benefits for this reason.

[16] The Appellant was outside Canada from December 2, 2019, to July 7, 2020, and I am of the view that he could not receive benefits from March 6, 2020, to July 7, 2020, the period he disputes.

[17] While I sympathize with the Appellant's disappointment and the difficulties he experienced during the pandemic when he was in Cameroon, I cannot exempt him from the application of the Act.

[18] At the same time, the Appellant says that he took some steps to find a job during that period. He explains that he did not have access to several resources in Cameroon, but that he still checked the Job Bank website on the Internet. The job alerts he got did not match his profile, and he did not apply for any jobs, but he says that he contacted his former employer in June 2020 to see

whether he could get a job. However, the Appellant told the Commission that he would not be able to return to Canada within 48 hours if he were offered a job.

[19] Under section 37(b) of the Act, the Appellant is not entitled to receive benefits from March 6, 2020, to July 7, 2020, because he was outside Canada during that period.

CONCLUSION

[20] The appeal is dismissed.

Josée Langlois
Member, General Division – Employment Insurance Section

| | |
|-----------------------|--------------------|
| HEARD ON: | September 28, 2020 |
| METHOD OF PROCEEDING: | Teleconference |
| APPEARANCE: | S. F. |