



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *RS v Canada Employment Insurance Commission*, 2021 SST 111

Tribunal File Number: GE-21-342

BETWEEN:

**R. S.**

Appellant (Claimant)

and

**Canada Employment Insurance Commission**

Respondent (Commission)

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Solange Losier

HEARD ON: March 12, 2021

DATE OF DECISION: March 14, 2021

## **DECISION**

[1] The appeal is dismissed. The Claimant has not shown that she has worked enough hours to qualify for Employment Insurance (EI) benefits.

## **OVERVIEW**

[2] The Claimant applied for EI benefits, but the Canada Employment Insurance Commission (Commission) decided that the Claimant has not worked enough hours to qualify.<sup>1</sup>

[3] The Commission says that the Claimant does not have enough hours because she needs 420 hours, but has only 300 hours. The Claimant disagrees because she has paid EI premiums for many years, she received a severance amount from her former employer and did not know that she had to apply EI benefits right after her employment ended.

## **PRELIMINARY MATTER**

[4] The Claimant said that she asked for an antedate of her EI claim. However, the Commission has not made a reconsideration decision on the issue of antedate. Because there has been no reconsideration decision made, I cannot make a decision about the antedate issue at this hearing.

[5] This means that I can only decide whether she qualifies for EI benefits on the date she made her application. The Claimant intends to follow up with the Commission about the antedate issue after the hearing.

## **ISSUE**

[6] Has the Claimant worked enough hours to qualify for EI benefits?

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<sup>1</sup> Section 7 of the *Employment Insurance Act* (EI Act) says that the hours worked have to be “hours of insurable employment.” In this decision, when I use “hours,” I am referring to “hours of insurable employment.”

## **ANALYSIS**

### **How to qualify for benefits**

[7] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.<sup>2</sup> The Claimant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she qualifies for benefits.

[8] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”<sup>3</sup>

[9] The number of hours depends on the unemployment rate in your region.<sup>4</sup>

### **The Claimant’s region and regional rate of unemployment**

[10] The Commission decided that the Claimant’s region was X and that the regional rate of unemployment at the time was 13.1% (GD3-18 to GD3-23).

[11] This means that the Claimant would need to have worked at least 420 hours in her qualifying period to qualify for EI benefits.<sup>5</sup>

### **The Claimant agrees with the Commission**

[12] The Claimant agrees with the Commission’s decisions about which region and regional rate of unemployment apply to her.

[13] Accordingly, I accept as fact that the Claimant needs to have worked 420 hours to qualify for EI benefits.

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<sup>2</sup> See section 48 of the EI Act.

<sup>3</sup> See section 7 of the EI Act.

<sup>4</sup> See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

<sup>5</sup> Section 7 of the EI Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

### **The Claimant's qualifying period**

[14] As noted above, the hours counted are the ones that the Claimant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.<sup>6</sup>

[15] Your benefit period is not the same thing as your qualifying period. It is a different timeframe. Your benefit period is the time when you can receive EI benefits.

[16] The Commission decided that the Claimant's qualifying period was the usual 52 weeks. It determined that the Claimant's qualifying period went from January 19, 2020 to January 16, 2021.

### **The Claimant agrees with the Commission**

[17] The Claimant agrees with the Commission's decision about her qualifying period.

[18] Accordingly, I accept as fact that the Claimant's qualifying period is from January 19, 2020 to January 16, 2021.

### **The hours the Claimant worked**

[19] The Commission decided that the Claimant had worked zero hours during her qualifying period. However, the Commission wrote that an administrative error happened because they failed to evaluate and calculate her EI claim based on some new temporary measures that were in place (GD4-2).<sup>7</sup> The new temporary measures provide a credit of insurable hours to claimants.

[20] Any claimant who makes a request for regular benefits EI benefits on or after September 27, 2020 is eligible to receive a credit of additional 300 hours of insurable employment.<sup>8</sup> For the Claimant, this means that she has a credit of 300 hours.

### **The Claimant agrees with the Commission**

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<sup>6</sup> See section 8 of the EI Act.

<sup>7</sup> See section 153.16 of the EI Act.

<sup>8</sup> See section 153.17(1)(b) of the EI Act.

[21] The Claimant does not dispute the determination of her hours, including the credit of 300 hours. She said that she had not worked any additional hours after her last day of employment.

[22] Accordingly, I accept that the Claimant has 300 hours.

**Has Claimant worked enough hours to qualify for EI benefits?**

[23] I find that the Claimant has not proven that she has enough hours to qualify for benefits because she needs 420 hours, but has 300 hours.

[24] EI is an insurance plan and, like other insurance plans, you have to meet certain requirements to receive benefits.

[25] In this case, the Claimant does not meet the requirements, so she does not qualify for benefits. While I sympathize with the Claimant's situation, I cannot change the law.<sup>9</sup>

**Conclusion**

[26] The Claimant does not enough hours to qualify for EI benefits. This means that the appeal is dismissed.

Solange Losier

Member, General Division - Employment Insurance Section

HEARD ON:	March 12, 2021
METHOD OF PROCEEDING:	Videoconference
APPEARANCES:	R. S., Appellant (Claimant)

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<sup>9</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.