



Citation: *AH v Canada Employment Insurance Commission*, 2021 SST 291

**Social Security Tribunal of Canada
General Division – Employment Insurance Section**

Decision

Claimant: A. H.

Commission: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (420053) dated April 1, 2021
(issued by Service Canada)

Tribunal member: Audrey Mitchell

Type of hearing: Teleconference

Hearing date: May 17, 2021

Hearing participant: Claimant

Decision date: May 18, 2021

File number: GE-21-670

Decision

[1] The appeal is dismissed. The Claimant was not entitled to receive employment insurance benefits from December 14, 2020 to March 15, 2021, while he was not in Canada.

Overview

[2] The Claimant left his job because he was sick. He applied for employment insurance (EI) sickness benefits. He left Canada to attend his grandmother's funeral. While outside Canada, the Claimant got very sick and ended up in the hospital. He could not return to Canada when planned because of travel restrictions due to the pandemic. The Commission disentitled the Claimant from receiving benefits from December 14, 2020, because he was not in Canada. The Claimant says that as the only one who earns money in his family, he needs the benefits.

Issue

[3] Was the Claimant entitled to EI benefits while he was not in Canada?

Analysis

Was the Claimant entitled to EI benefits while he was not in Canada?

[4] I find that the Claimant was not entitled to receive EI benefits from December 14, 2020 to March 15, 2021, while he was not in Canada.

[5] With some exceptions, a claimant is not entitled to receive benefits for any period during which the claimant is not in Canada.¹²

[6] The onus is on claimants to prove that they meet the requirements of the law.³ The law does not give me the power to depart from its provisions, for any reason, no matter how compelling the circumstances.⁴

¹ Paragraph 37(b) of the *Employment Insurance Act*.

² Subsection 55(1) of the *Employment Insurance Regulations*.

[7] The Claimant agrees that he left Canada on December 6, 2020. He testified that he returned to Canada on March 16, 2021.

[8] The Claimant said that he left Canada to attend his grandmother's funeral. He intended to return to Canada on December 11, 2020, but he got sick. After that, because of travel restrictions and because he also contracted COVID-19, the Claimant's return was delayed further.

[9] The Commission submits that the Claimant was entitled to EI benefits for a seven-day period to December 13, 2020 to attend his grandmother's funeral. However, they say that from December 14, 2020 to March 15, 2021, he has not proven his entitlement to benefits.

[10] I asked the Claimant about the five exceptions to the rule that claimants who are outside Canada cannot get EI benefits. The Claimant said that his two uncles and his wife's uncle passed away while he was in his home country. He said that his mother also had a heart attack.

[11] The Claimant also said that he is the only person in his household who is working. His wife stays at home to look after their three-year-old daughter. He testified about taking loans from friends, which he has to repay. He said that he is just asking for an exception because of the pandemic.

[12] I found the Claimant's testimony to be honest, straightforward and clear. He noted that his friends had encouraged him not to let Service Canada know that he had left Canada. He felt that he could not do that.

[13] I sympathize with the Claimant and the difficult circumstances he experienced while away from Canada. I note in particular the passing of his uncles and his mother's heart attack. The law does include exceptions for claimants who are outside Canada to visit ill family members and to attend family-member funerals. However, the law also says that a claimant cannot combine the exceptions except to visit a sick or critically ill

³ *Canada (Attorney General) v. Peterson*, A-370-95

⁴ *Granger v. Canada Employment and Immigration Commission*, A-684-85.

family member and to attend that person's funeral.⁵ For this reason, I do not find that exceptions apply for his uncles' passing or his mother's heart attack.

[14] The pandemic and its effects on the ability to travel were not predictable. I sympathize with the Claimant who found himself caught in this situation. However, I cannot do other than what the law says, no matter the circumstances.

[15] I am not satisfied that the Claimant has demonstrated that any of the exceptions listed in the law apply for the period from December 14, 2020 to March 15, 2021. For this reason, I find that a disentitlement should be imposed for that period, because the Claimant was not in Canada.

Conclusion

[16] The appeal is dismissed.

Audrey Mitchell
Member, General Division – Employment Insurance Section

⁵ Subsection 55(1.1) of the *Employment Insurance Regulations*.