



Citation: *LP v Canada Employment Insurance Commission*, 2021 SST 405

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

**Decision**

**Appellant:** L. P.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (423755) dated May 14, 2021  
(issued by Service Canada)

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**Tribunal member:** Candace R. Salmon

**Type of hearing:** Teleconference

**Hearing date:** July 13, 2021

**Hearing participant:** Appellant

**Decision date:** July 14, 2021

**File number:** GE-21-1070

## Decision

[1] The appeal is dismissed. I find the Claimant is not eligible to receive any further employment insurance special benefits for sickness.

## Overview

[2] The Claimant stopped working due to illness. She applied for employment insurance (EI) special benefits for sickness. The Canada Employment Insurance Commission (Commission) established a claim for benefits and paid the Claimant 15 weeks of sickness benefits.

[3] The Claimant asked the Commission to extend her sickness benefits by 11 weeks. She stated that she remained unable to work due to illness, and said that the Prime Minister of Canada announced that the government was passing a bill to allow an extra 11 weeks of sickness benefits, which she believes she is entitled to receive. The Commission denied her request. After reconsidering her file, it upheld this decision.

[4] The Claimant appeals to the Social Security Tribunal (Tribunal), arguing she should be entitled to receive an additional 11 weeks of sickness benefits.

## Issue

[5] Does the Claimant qualify to receive any further sickness benefits?

## Analysis

[6] Sickness benefits are a special EI benefit program. Claimants qualify for sickness benefits under different provisions than regular benefits. In this case, there is no question that the Claimant qualified for 15 weeks of sickness benefits.

[7] The *Employment Insurance Act* states that the maximum number of weeks for which benefits may be paid because of illness or injury is 15 weeks.<sup>1</sup> While the Claimant submitted this number is increasing to 26 weeks, as of today no change has been made to the law.

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<sup>1</sup> *Employment Insurance Act*, section 12(3)(c)

[8] The Claimant submitted at the hearing that the Prime Minister of Canada announced changes to EI sickness benefits, to extend them by 11 weeks, to a total of 26 weeks instead of 15 weeks. It is accurate that the government announced, as part of the 2021 budget, an extension to EI sickness benefits that would change the law to allow claimants to receive 26 weeks of benefits. However, even with the passage of the budget bill, changes to the law require implementation. The changes described to this element of the law have not been implemented, so the Claimant cannot benefit from what is not presently the law.

[9] The Claimant submitted that she has been off work for more than a year and described her medical condition at the hearing. I have no question that she remains ill and unable to work; however, I have no flexibility to change the law to apply the promises of the 2021 federal budget, which have not yet become law.

[10] The Claimant also submitted that she has worked all her life, paid into EI, and is in hardship. She stated she believes she deserves to receive the additional weeks of sickness benefits, and said this is the type of situation the EI program was designed to address. I find that even though the Claimant made contributions to the EI program, this does not automatically entitle her to receive benefits. Employment insurance is an insurance plan and, like other insurance plans, claimants must meet the conditions of the plan to obtain benefits.<sup>2</sup> In this case, the Claimant met the requirements to receive 15 weeks of sickness benefits. There is no flexibility to allow her to receive additional weeks.

[11] While I am sympathetic to the Claimant's position, there is no legal basis to find in her favour when she has already received the maximum allowable weeks of sickness benefits. In dealing with cases where the resulting decision may seem unfair, the Federal Court of Appeal has found:

...rigid rules are always apt to give rise to some harsh results that appear to be at odds with the objectives of the statutory scheme. However, tempting as it may be in such cases (and this may well be one),

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<sup>2</sup> *Pannu v. Canada (Attorney General)*, 2004 FCA 90 at paragraph 3

adjudicators are permitted neither to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning.<sup>3</sup>

## **Conclusion**

[12] The appeal is dismissed. I find the Claimant is not entitled to receive additional weeks of sickness benefits.

Candace R. Salmon  
Member, General Division – Employment Insurance Section

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<sup>3</sup> *Canada (Attorney General) v. Knee*, 2011 FCA 301 at paragraph 9