



[TRANSLATION]

Citation: *MM v Canada Employment Insurance Commission*, 2021 SST 657

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

**Decision**

**Appellant:** M. M.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (425240) dated July 15, 2021  
(issued by Service Canada)

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**Tribunal member:** Manon Sauvé  
**Type of hearing:** Teleconference  
**Hearing date:** August 26, 2021  
**Hearing participant:** Appellant  
**Decision date:** September 15, 2021  
**File number:** GE-21-1276

## Decision

[1] The appeal is dismissed. The Claimant does not qualify for Employment Insurance (EI) benefits because he has not shown that he had an interruption of earnings for seven consecutive days during the qualifying period.

[2] The Claimant is not eligible for the EI Emergency Response Benefit because he applied after December 2, 2020, and because he did not have an interruption of earnings for seven consecutive [days].

## Overview

[3] The Claimant works as a maintenance team leader. Because of the pandemic, his hours were reduced to 30 hours a week.

[4] On March 29, 2021, he made a claim for EI benefits. He is asking that it be considered as though it was made on May 3, 2020.

[5] He also applied for the EI Emergency Response Benefit. He finds that he is entitled to this type of benefit.

[6] According to the Commission, the Claimant does not qualify for EI benefits, since he did not stop working for seven consecutive days. During the qualifying period, he did not stop receiving earnings for seven consecutive days.

[7] Concerning the EI Emergency Response Benefit, the Claimant is not entitled to it, since he applied after the December 2, 2020, deadline. The Claimant applied on March 29, 2021.

[8] According to the Claimant, the situation is unfair. He is entitled to benefits because he worked fewer hours.

## Issues

- Does the Claimant qualify for EI benefits from May 3, 2020?

- If so, did the Claimant have good cause for the delay?
- Is the Claimant eligible for the EI Emergency Response Benefit?

## Analysis

[9] To get your initial claim for benefits antedated, you have to prove these two things:<sup>1</sup>

- a) You qualified for benefits on the earlier day (that is, the day you want your initial claim antedated to).
- b) You had good cause for the delay during the entire period of the delay. In other words, you have an explanation that the law accepts.

[10] One of the qualifying conditions for EI benefits is that you have an interruption of earnings.<sup>2</sup> This occurs where a person is laid off or separated from their employment [and] does not work for seven consecutive days and no earnings, other than certain amounts, are paid.<sup>3</sup>

[11] I note that the Claimant made a claim for EI benefits on March 29, 2021, asking that it be considered as though it was made on May 3, 2020.

[12] The Claimant provided a Record of Employment in support of his application. His employer issued the Record of Employment at his request.

[13] I note from the evidence on file and from his testimony at the hearing that he never stopped working between May 5, 2019, and May 3, 2020—the qualifying period. A claimant needs to have had an interruption of earnings for seven consecutive days during that period, which is not the case for the Claimant. He worked fewer hours a

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<sup>1</sup> See section 10(4) of the *Employment Insurance Act*.

<sup>2</sup> Section 7(2) of the *Employment Insurance Act* sets out the qualifying conditions for Employment Insurance benefits.

<sup>3</sup> Section 14 of the *Employment Insurance Regulations*.

week, but he did not have an interruption of earnings for at least seven consecutive days.

[14] I agree with the Commission that the Claimant has not shown that he had an interruption of earnings for seven consecutive days. If you do not meet the conditions, you do not qualify for benefits.<sup>4</sup> An interruption of earnings is an essential condition to qualify for benefits.<sup>5</sup>

[15] I do not need to consider whether the Claimant had good cause for the delay because he has not shown that he had an interruption of earnings for seven consecutive days. In other words, he does not meet the qualifying conditions for EI benefits for the qualifying period, from May 5, 2019, to May 3, 2020.

### **Is the Claimant eligible for the EI Emergency Response Benefit?**

[16] To be eligible for the EI Emergency Response Benefit, you have to meet certain conditions.<sup>6</sup> For example, you need to have applied before December 2, 2020.<sup>7</sup> I note two things: The Claimant applied on March 29, 2021; the specific provisions due to the pandemic do not allow for late applications. This means that his application is late, and there are no provisions that allow him to justify the delay.

[17] In addition, there needs to have been an interruption of earnings for seven consecutive days, including within the two-week period for which he claimed the EI Emergency Response Benefit.<sup>8</sup>

[18] But, the Claimant did not have an interruption of earnings for seven consecutive days during the qualifying period, including within the two-week period for which he claimed this type of benefit.

[19] With this in mind, the Claimant is not eligible for the EI Emergency Response Benefit. I understand the Claimant's financial difficulties during the pandemic. But, I do

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<sup>4</sup> *Simard v Canada (Attorney General)*, 2001 FCA 270.

<sup>5</sup> *Thériault v Canada (Attorney General)*, 2008 FCA 283

<sup>6</sup> Section 153.9(1) of the *Employment Insurance Act*.

<sup>7</sup> Section 153.8(2) of the *Employment Insurance Act*.

<sup>8</sup> Section 153.9(1)(a)(iv).

not have the power to go beyond what is set out in the *Employment Insurance Act* (Act).<sup>9</sup>

## **Conclusion**

[20] I find that the Claimant does not qualify for EI benefits because he does not meet the criteria set out in the Act to establish a benefit period.

[21] I find that the Claimant is not eligible for the EI Emergency Response Benefit because he does not meet the criteria set out in the Act.

[22] The appeal is dismissed.

Manon Sauvé  
Member, General Division – Employment Insurance Section

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<sup>9</sup> See *Canada v Lévesque*, 2001 FCA 304; and *Long v Canada*, 2011 FCA 99.