



Citation: *AJ v Canada Employment Insurance Commission*, 2021 SST 819

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

Decision

Appellant:

A. J.

Respondent:

Canada Employment Insurance Commission

Decision under appeal:

Canada Employment Insurance Commission
reconsideration decision (432073) dated September 15,
2021 (issued by Service Canada)

Tribunal member:

Solange Losier

Type of hearing:

Videoconference

Hearing date:

December 29, 2021

Hearing participant:

Appellant
Appellant's Witness

Decision date:

December 30, 2021

File number:

GE-21-2024

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant.

Overview

[2] When you fill out your Employment Insurance (EI) parental benefits application, you need to choose between two options: the “standard option” and the “extended option.”¹

[3] The standard option pays benefits at the normal rate for up to 35 weeks. The extended option pays the same amount of benefits at a lower rate for up to 61 weeks. Overall, the amount of money stays the same. It is just stretched over a different number of weeks. Once you start receiving parental benefits, you cannot change options.²

[4] On her application, the Claimant chose extended parental benefits.³ She started receiving parental benefits at the lower rate the week of June 6, 2021.⁴

[5] The Canada Employment Insurance Commission (Commission) says that the Claimant made her choice and that it is too late to change it because she has already started receiving parental benefits under the extended option.⁵

[6] The Claimant disagrees and says that she was not told there was a time limit to make that request. She also intended to change her election to the standard option and has a good reason to explain her circumstances.

¹ Section 23(1.1) of the *Employment Insurance Act* (EI Act) calls this choice an “election.”

² Section 23(1.2) of the EI Act says that the election is irrevocable (that is, final) once you receive benefits.

³ See application for benefits at GD3-3 to GD3-16.

⁴ See EI benefit statement at GD3-21.

⁵ See Commission’s representations at GD4-1 to GD4-5.

Preliminary Matter

[7] The Claimant's husband was first listed as her representative. However, he had evidence to give about the case, so he became a Witness and testified at the hearing instead.

Issue

[8] Can the Claimant change her election from the extended parental benefit to the standard parental benefit option?

Analysis

[9] The EI parental benefits program offers financial support for parents who are not working while they care for their newborn or newly adopted child. A Claimant can pick either the standard or extended parental benefit option. Depending on which option is picked, the Claimant can also pick the number of weeks they want to collect, up-to a maximum amount. The law says that you cannot change options once the Commission starts paying parental benefits.⁶

The Claimant's election for extended parental benefits cannot be changed or revoked

[10] I find that the Claimant cannot change her parental benefit election for extended to standard for the following reasons.

[11] First, the Claimant confirmed that she knowingly picked the extended option for parental benefits because she asked for 61 weeks.⁷ She wanted to be off from work for a total of 18 months. She completed the application with some assistance from her husband, she read the application and was aware of the differences between extended

⁶ Section 23(1.2) says that the choice is irrevocable (that is, final) once you receive benefits.

⁷ See GD3-9.

and standard options. This is consistent with the return to work date on her application, which was August 15, 2022.⁸

[12] Second, I was not persuaded by the Claimant's argument that the Commission had not told her about the deadline for changing her election for parental benefits. Namely, that she could have changed her election for extended before she was paid parental benefits. While the application does not explicitly say that her election for standard or extended parental benefits can be changed, it does say that "once parental benefits have been paid for the same child, the choice between standard and extended parental benefits is irrevocable".⁹

[13] Third, the Claimant has relied on information previously provided by her employer. They told her that she could change her parental leave from 18 months off to 12 months. She relied on this information and assumed that it meant she could also change from extended to standard parental benefits. I note that the employer's policy may have allowed her to change the terms of her parental leave or absence, but this is different from the parental benefits paid by EI.

[14] Lastly, I was not persuaded by the Claimant's argument that she tried calling the Commission, but could either not reach them, or was provided with misinformation. She says that these calls took place in either June or July 2021, but could not provide any specific details. I preferred the evidence in file which shows that she spoke to a Commission agent on August 13, 2021. This was the date she asked the Commission to switch from extended to standard.¹⁰ Her request was denied by the Commission because she was already receiving parental benefits under the extended option and had been since June 8, 2021.¹¹

[15] I acknowledge the Claimant's argument that her child was experiencing digestive issues which required her ongoing care. Her husband testified that he was ill and the other children were ill for some time. This was part of the reason she was not in a

⁸ See GD3-7.

⁹ See GD3-9.

¹⁰ See supplementary record of claim at GD3-23.

¹¹ See GD3-23; GD3-26; GD3-27.

position to inform the Commission about the switch from extended to standard. While this may be a good reason to explain the delay in making her request, I do not have any discretion to switch her election to the standard option for this reason.

So, can the Claimant change from extended to the standard option?

[16] No, the Claimant cannot change her election from extended to the standard option because parental benefits have already been paid. The law is clear that the option cannot be changed once you have received parental benefits and I cannot change the law.¹²

Conclusion

[17] This means that the appeal is dismissed.

Solange Losier

Member, General Division – Employment Insurance Section

¹² See *Pannu v Canada (Attorney General)*, 2004 FCA 90.