



Citation: *KR v Canada Employment Insurance Commission*, 2021 SST 800

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant:

K. R.

Respondent:

Canada Employment Insurance Commission

Decision under appeal:

Canada Employment Insurance Commission
reconsideration decision (431830) dated September 7,
2021 (issued by Service Canada)

Tribunal member:

Amanda Pezzutto

Type of hearing:

Teleconference

Hearing date:

November 4, 2021

Hearing participant:

Appellant

Decision date:

November 8, 2021

File number:

GE-21-1882

Decision

[1] K. R. is the Claimant. She asked the Canada Employment Insurance Commission (Commission) to use a one-time credit of insurable hours on a later application for Employment Insurance (EI) benefits. The Commission refused. The Claimant is appealing this decision to the Social Security Tribunal.

[2] I must dismiss the Claimant's appeal. The law says the Commission has to apply the one-time hours credit on the first claim after September 27, 2020. For this Claimant, this was the claim that started on December 27, 2020. The law doesn't allow the Claimant to save the hours credit and use it later.

Overview

[3] The Claimant stopped working in December 2020 and applied for EI regular benefits. The Commission used her hours from employment to start a new benefit period on December 27, 2020. The Commission also gave her a credit of 300 hours. The Claimant collected several weeks of EI regular benefits, with a short break when she briefly returned to work.

[4] At the same time, the Claimant was pregnant. She had her baby on July 20, 2021. The Commission started paying her EI maternity benefits on July 18, 2021. The Claimant didn't have enough hours to start a new benefit period. So the Commission told her that she wouldn't collect the maximum number of weeks of EI parental benefits

[5] The Claimant wants to save the one-time hours credit and use it to help her qualify for EI maternity and parental benefits. She says she already had enough hours to qualify for EI regular benefits on December 27, 2020. So, she didn't need the one-time hours credit to qualify. She wants to use the credit when she really needs it, so she can qualify for a new benefit period and collect the maximum weeks of EI maternity and parental benefits.

[6] The Commission says it has to apply the law. The Commission says it had to use the one-time hours credit on the December 27, 2020 claim. The Commission says the law doesn't allow the Claimant to save the hours credit and use it for a later claim.

Issue

[7] Can the Claimant save the one-time hours credit and use it to qualify on a later claim?

Analysis

[8] The government brought in several temporary rules to help people qualify for EI benefits during the pandemic. This appeal is about one of the temporary rules.

[9] The law gave anyone who applied for EI regular or special benefits a credit of insurable hours. This applied to any new EI claim made after September 27, 2020 and before September 25, 2021.¹

[10] If you applied for EI regular benefits, the law gave you a credit of 300 extra hours to help you qualify.² You could only get the credit once; the law didn't allow you to get the hours credit more than once.³

[11] The Claimant argues that the Commission applied the one-time hours credit when she didn't need it. She says she wants the flexibility to use the hours credit when she needs it. She didn't need it to qualify in December 2020, but now she doesn't have enough hours to start a new benefit period. She wants to start a new benefit period so she can collect the maximum weeks of EI maternity and parental benefits.

[12] The Commission says the Claimant can't save the hours credit and use it later. The Commission says it had to apply the hours credit to her first new EI claim after

¹ Refer to subsection 153.196(1) of the *Employment Insurance Act*.

² Subsection 17(1) of the *Employment Insurance Act*.

³ Subsection 153.17(2) of the *Employment Insurance Act*.

September 27, 2020. So, the Commission applied the credit to the December 27, 2020 claim.

[13] I am sympathetic to the Claimant's situation, but I must agree with the Commission. Nothing in the law allows the Claimant to save the hours credit and use it for a later claim. She can only get the credit one time.

[14] The law is clear. The law says that the hours credit applies if you make a new initial claim for benefits after September 27, 2020 in relation to an interruption of earnings on or after September 27, 2020. In other words, you get the credit if you stop working after September 27, 2020 and make a new claim for EI benefits. You only get the credit on your first EI application after September 27, 2020.

[15] The Claimant stopped working on December 25, 2020 and the Commission started a new benefit period on December 27, 2020. This was her first initial claim after September 27, 2020 and so the Commission had to use the hours credit on this claim.

[16] The law doesn't give the Commission or the Claimant any choice about when to use the hours credit. So the Claimant can't save the credit to use another time.

[17] Also, the law doesn't give any flexibility even if you already had enough hours to qualify for benefits without the credit. So, even though the Claimant already had enough hours to qualify in December 2020, the Commission still had to give her the hours credit.

[18] The Commission says the Claimant doesn't have enough hours to start a new benefit period after December 27, 2020. She would need 600 hours, but she only has 345 hours. At the hearing, the Claimant said she agreed that she didn't have enough hours to start a new benefit period. She agreed that she didn't have 600 hours. She is only trying to appeal the Commission's decision about when to apply the hours credit.

[19] The law doesn't give any flexibility about when to apply the hours credit. The Commission had to apply it to the Claimant new initial claim in December 2020. The

Claimant can't save the hours credit and use it on a later application for EI benefits. I can't make changes to the law, even in the most sympathetic situations.⁴

Conclusion

[20] I am dismissing the Claimant's appeal. She can't save the hours credit to use on a later application for EI benefits.

Amanda Pezzutto
Member, General Division – Employment Insurance Section

⁴ *Canada (Attorney General) v Knee*, 2011 FCA 301, at paragraph 9.