



Citation: *CC v Canada Employment Insurance Commission*, 2022 SST 73

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

Decision

Appellant: C. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (437559) dated October 30, 2021
(issued by Service Canada)

Tribunal member: Amanda Pezzutto

Type of hearing: Teleconference

Hearing date: January 11, 2022

Hearing participant: Appellant

Decision date: January 17, 2022

File number: GE-21-2128

Decision

[1] C. C. is the Claimant. The Canada Employment Insurance Commission (Commission) decided that she didn't have enough hours to qualify for Employment Insurance (EI) benefits. She is appealing this decision to the Social Security Tribunal (Tribunal).

[2] I am allowing the Claimant's appeal. I find that she has enough hours to qualify for EI benefits because she can get a one-time credit of 300 hours.

Overview

[3] The Claimant stopped working on September 24, 2021 and applied for EI benefits on September 25, 2021. The Commission decided that she didn't have enough hours to qualify for benefits.¹

[4] The Commission says the Claimant doesn't have enough hours to qualify because she only has 125 hours, but she needs 420 hours to qualify. The Commission says she can't get a one-time credit of insurable hours. The Commission says this is because the temporary rules about the one-time hours credit ended on September 25, 2021, but her benefit period starts on September 26, 2021.

[5] The Claimant disagrees. She says that the Commission should give her the hours credit because she applied for EI benefits before the deadline of September 25, 2021.

Issue

[6] I must decide whether the Claimant has worked enough hours to qualify for EI benefits. To make this decision, I have to decide if she can get a one-time credit of 300 hours.

¹ Section 7 of the *Employment Insurance Act* (EI Act) says that the hours worked have to be "hours of insurable employment." In this decision, when I use "hours," I am referring to "hours of insurable employment."

Analysis

How to qualify for benefits

[7] You have to prove your entitlement to EI benefits. This means that you have to prove that you have enough insurable hours to qualify for EI benefits. You have to show that you have enough hours within a certain timeframe. This timeframe is called the “qualifying period.”²

[8] The number of hours usually depends on the unemployment rate in your region.³ But the government brought in several temporary rules to help people qualify for EI benefits during the pandemic.

[9] One of these temporary changes means that most people only need 420 hours to qualify for benefits.⁴

[10] Under another temporary rule, anyone who applied for EI regular or special benefits received a credit of insurable hours. This applied to any new EI application made between September 27, 2020 and September 25, 2021.⁵

[11] The Claimant and the Commission agree about many of the basic facts in this case. But they disagree about whether the Claimant can get the hours credit. This means that they also disagree about whether she has enough hours to qualify for benefits.

How many hours the Claimant needs to qualify for benefits

[12] The Commission says the Claimant needs at least 420 hours to qualify for benefits. The Commission says she needs 420 hours whether her benefit period starts on September 19 or September 26, 2021.

² See sections 7 and 8 of the EI Act.

³ See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

⁴ First, temporary measures set the unemployment rate at 13.1% across Canada. In practice, this meant that claimants needed 420 hours to qualify for benefits. Then, from September 26, 2021, the EI Act requires claimants from any region to have at least 420 hours.

⁵ See subsections 153.17(1) and 153.196(1) of the EI Act.

[13] The Claimant doesn't say she disagrees with the Commission's information. She has always said that she agrees that she needs 420 hours to qualify for benefits.

[14] If the Commission starts her benefit period on September 19, 2021, the law in place at the time says the number of hours she needs to qualify depends on the rate of unemployment in her region. But, as the Commission explains, a temporary rule set the unemployment rate at 13.1% in every region across Canada. So, everyone needed 420 hours to qualify for benefits, no matter where they lived in Canada.⁶

[15] Then, starting September 26, 2021, the law changed. Starting September 26, 2021, the law says that anyone applying for EI benefits needs at least 420 hours to qualify for benefits.⁷

[16] So, I agree that the Claimant needs at least 420 hours to qualify for benefits. This is true whether her benefit period starts on September 19, 2021, or on September 26, 2021.

The one-time hours credit

[17] The Claimant and the Commission disagree about whether the Claimant can get the hours credit.

[18] The Commission argues that the Claimant can only get the hours credit if her benefit period starts on September 19, 2021. The Commission says she can't get the credit if she starts her benefit period on September 26, 2021.

[19] The Claimant disagrees. She says that she should get the hours credit because she applied for EI benefits before the law changed.

[20] I agree with the Claimant. I find that she should get the hours credit. This is because the hours credit is for anyone who makes a new application for EI between September 27, 2020 and September 25, 2021.

⁶ See GD4-2 and the table in subsection 7(2) of the EI Act as it was on September 19, 2021.

⁷ Subsection 7(2) of the EI Act, as of September 26, 2021.

[21] I have reached this conclusion by looking carefully at the plain meaning of the law. The relevant part of the *Employment Insurance Act* says anyone “who makes an initial claim for benefits” between September 27, 2020 and September 25, 2021 gets a credit of insurable hours.⁸ I interpret this to mean that anyone who makes a new initial application for EI benefits between September 27, 2020 and September 25, 2021 can get the hours credit.

[22] If law-makers only wanted to give the credit to people who started a benefit period between September 27, 2020 and September 25, 2021, then this is what the law would say. But the law only refers to making a new initial claim. It doesn’t say that the hours credit depends on the start date of the benefit period.

[23] Both the Claimant and the Commission agree that the Claimant made a new initial claim (in other words, a new application) on September 25, 2021. If I rely on the plain meaning of the law, this means that she made a new initial claim within the necessary time window to get the insurable hours credit.

[24] So, I find that the Claimant is entitled to a credit of 300 insurable hours, even if her benefit period starts after September 25, 2021.

Has the Claimant worked enough hours to qualify for EI benefits?

[25] I find that the Claimant has worked enough hours to qualify for EI benefits. This is because she has 125 hours of insurable employment and a credit of 300 hours.

[26] The Claimant’s last day of work was September 24, 2021. This means that her interruption of earnings happened in the following week.⁹ A benefit period always has to start on a Sunday, and a benefit period generally starts in the week that the interruption of earnings happens.¹⁰ This means that the Claimant’s benefit period should start on September 26, 2021.

⁸ Subsections 153.17(1) and 153.196(1) of the EI Act.

⁹ Subsection 14(1) of the *Employment Insurance Regulations*.

¹⁰ Paragraph 10(1)(a) of the EI Act.

[27] The Commission says the Claimant's qualifying period runs from September 27, 2020 to September 25, 2021. A qualifying period is usually the 52 weeks immediately before the benefit period start date.¹¹ The Claimant hasn't given me any evidence to show that the Commission's calculations are wrong, so I accept that her qualifying period runs from September 27, 2020 to September 25, 2021.

[28] At the hearing, the Claimant said she only worked for one employer during her qualifying period. Her Record of Employment (ROE) says she worked 125 hours between August 10 and September 24, 2021. The Claimant and the Commission agree about the hours the Claimant worked. Since there is no dispute about the hours on the ROE, I accept that the Claimant has 125 hours from this job.

[29] I have already explained why I find that the Claimant can get a credit of 300 hours. This means that the Claimant has 125 hours from her job and a credit of 300 hours. So, she has 425 hours in her qualifying period.

[30] The Claimant needs 420 hours to qualify for benefits. She has 425 hours in her qualifying period, and so I find that she has enough hours to qualify for benefits.

Conclusion

[31] I am allowing the Claimant's appeal. I find that she has enough hours to qualify for benefits. This is because she can get the one-time credit of insurable hours based on the date she applied for EI benefits.

Amanda Pezzutto
Member, General Division – Employment Insurance Section

¹¹ Paragraph 8(1)(a) of the EI Act.