



Citation: *GK v Canada Employment Insurance Commission*, 2021 SST 890

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant:

G. K.

Respondent:

Canada Employment Insurance Commission

Decision under appeal:

Canada Employment Insurance Commission
reconsideration decision (435393) dated October 6, 2021
(issued by Service Canada)

Tribunal member:

Amanda Pezzutto

Type of hearing:

Teleconference

Hearing date:

December 14, 2021

Hearing participant:

Appellant

Decision date:

December 17, 2021

File number:

GE-21-2100

Decision

[1] G. K. is the Claimant. The Canada Employment Insurance Commission (Commission) made decisions about how many weeks of Employment Insurance (EI) benefits she can receive. The Claimant is appealing this decision to the Social Security Tribunal (Tribunal).

[2] I must dismiss the Claimant's appeal. She can't collect more than 50 weeks of EI benefits in her benefit period. This is because she collected regular and special benefits in the same benefit period. So, she can't collect 35 weeks of EI parental benefits in her benefit period.

Overview

[3] The Claimant's employer laid her off. She started collecting EI regular benefits. Then, she started collecting EI maternity and parental benefits. The Commission told her that she wouldn't get 35 weeks of EI parental benefits because she had already collected some EI regular benefits.

[4] The Commission says the Claimant can't collect more than 50 weeks of benefits because she is combining regular and special benefits in the same benefit period.

[5] The Claimant says she should get 15 weeks of maternity benefits and 35 weeks of parental benefits so she can stay home with her child for a full year. She says she didn't choose for her employer to lay her off.

Issue

[6] The Claimant wants to collect the maximum number of weeks of parental benefits. So, I must decide if she can collect more than 50 weeks of benefits in her benefit period.

Analysis

[7] When you apply and qualify for employment insurance benefits, the Commission establishes a benefit period. A benefit period is the window of time in which you can

receive employment insurance benefits. You can only claim employment insurance benefits for weeks within the benefit period.¹

[8] The law describes the maximum number of weeks of benefits you can collect in your benefit period. Different kinds of benefits have different maximums. For instance, you can only collect a maximum of 15 weeks of maternity benefits in a benefit period.²

[9] You can combine different kinds of benefits in one benefit period. So, for example, you could collect maternity and parental benefits in one benefit period. Or, you could collect sickness benefits and regular benefits in one benefit period. But, when you combine EI regular benefits and EI special benefits in one benefit period, the law says you can only collect a maximum total of 50 weeks of benefits.³ Maternity and parental benefits are special benefits. This means that you can't collect more than 50 total weeks of benefits if you are trying to collect EI regular benefits and EI maternity and parental benefits in one benefit period.

[10] The Claimant and the Commission agree about the basic facts. The Claimant's employer laid her off in January 2021. She started collecting EI regular benefits on January 17, 2021. She collected 18 weeks of EI regular benefits. Then, the Commission started paying EI maternity benefits on May 23, 2021. The Claimant received 15 weeks of EI maternity benefits. Then her EI parental benefits started on September 5, 2021.

[11] The Commission says the Claimant won't get 35 weeks of EI parental benefits. This is because the law won't allow her to receive more than 50 weeks of benefits. So, her benefit period will end before she gets 35 weeks of EI parental benefits.

[12] The Claimant says she should get 35 weeks of parental benefits so she can stay home with her child for a year.

¹ Section 9 of the *Employment Insurance Act*.

² Paragraph 12(3)(a) of the *Employment Insurance Act*

[13] I am sympathetic to the Claimant's circumstances, but I agree with the Commission. She has collected regular and special benefits in the same benefit period. So, the law doesn't allow her to collect more than 50 weeks total of EI benefits.

[14] I can't ignore the law.³ I can't order the Commission to pay benefits to the Claimant if the law doesn't allow her to receive benefits.

[15] This means that the Claimant can't collect the maximum weeks of EI parental benefits. This is because she will reach a total of 50 weeks of benefits in her benefit period before she can collect 35 weeks of EI parental benefits.

Conclusion

[16] I am dismissing the Claimant's appeal.

Amanda Pezzutto
Member, General Division – Employment Insurance Section

³ *Canada (Attorney General) v Knee*, 2011 FCA 301.