



Citation: *ZC v Canada Employment Insurance Commission*, 2022 SST 232

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

## Decision

**Claimant:** Z. C.

**Commission:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (445107) dated January 7, 2022 (issued by Service Canada)

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**Tribunal member:** Audrey Mitchell

**Type of hearing:** Videoconference

**Hearing date:** February 17, 2022

**Hearing participant:** Claimant

**Decision date:** February 21, 2022

**File number:** GE-22-170

## Decision

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

[2] The Claimant isn't entitled to EI benefits from May 3, 2021 to October 15, 2021 while she was outside Canada. Also, she hasn't shown that she has worked enough hours from October 25, 2020 to October 23, 2021, to qualify for Employment Insurance (EI) benefits.

## Overview

[3] The Claimant was receiving EI benefits. She left Canada to visit her ill mother. The Canada Employment Insurance Commission (Commission) decided that they could pay the Claimant EI benefits for one week for this purpose. However, they decided that from May 3, 2021 to October 15, 2021, they couldn't pay her EI benefits because she was not in Canada.

[4] The Claimant says she understands that there are specific exemptions, but she was stuck outside Canada because of the pandemic. She says this was outside her control.

[5] When she returned to Canada, the Claimant applied for EI benefits, but the Commission decided that she hadn't worked enough hours to qualify.<sup>1</sup>

[6] I have to decide whether the Claimant has worked enough hours to qualify for EI benefits.

[7] The Commission says that the Claimant doesn't have enough hours because she needs 420 hours, but has only 0.

[8] The Claimant disagrees and says that she should be able to get the weeks of benefits that she could not get because she was outside Canada beyond her control.

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<sup>1</sup> 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."

## Issues

[9] Was the Claimant entitled to EI benefits while she was not in Canada?

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

## Analysis

### Outside Canada

[11] Claimants are not entitled to receive benefits for any period they are not in Canada.<sup>2</sup> There are some exceptions to this rule.<sup>3</sup> One exemption is for a claimant who is outside Canada to visit an immediate family member who is seriously ill.<sup>4</sup>

[12] A claimant has to prove that they meet the requirements of the law.<sup>5</sup> The law does not give me the power to depart from its provisions, for any reason, no matter how compelling the circumstances.<sup>6</sup>

[13] The Claimant left Canada because her mother was ill. She told the Commission that she was outside Canada from April 25, 2021 to October 15, 2021. In their reconsideration decision, the Commission decided that the Claimant was entitled to regular benefits for seven days, from April 25, 2021 to May 1, 2021 because she was visiting an immediate family member who was seriously ill.

[14] The Claimant testified that she had planned to return to Canada within a couple of weeks or a month maximum. However, because of COVID-19, she was stuck outside Canada. She confirmed that no other exemptions listed in the law other than the one the Commission identified apply to her situation.

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<sup>2</sup> Paragraph 37(b) of the *Employment Insurance Act*.

<sup>3</sup> Subsection 55(1) of the *Employment Insurance Regulations*.

<sup>4</sup> Paragraph 55(1)(d) of the *Employment Insurance Regulations*.

<sup>5</sup> *Canada (Attorney General) v. Peterson*, A-370-95

<sup>6</sup> *Granger v. Canada Employment and Immigration Commission*, A-684-85.

[15] I find that the Commission correctly allowed an exemption in the law for the Claimant to visit her ill mother. Based on her testimony, I don't find that any other exemptions apply.

[16] The Claimant suggested that her circumstances should be considered. She added that many exceptions have been made because of COVID-19. She testified that she risked her health, even without telling her family, to work in a seniors' home. She did so to help out. The Claimant said that she had no control over not being able to return to Canada.

[17] I sympathize with the Claimant, and understand her need to leave Canada to visit her mother. She testified that she did not think that her mother would live. She is asking to get the benefits she was otherwise entitled to. I acknowledge what must have been a very difficult situation for her. However, I can't do other than what the law says, no matter the circumstances. I must apply the law.

[18] I find that an exemption applies for the Claimant to visit her mother, from April 25, 2021 to May 1, 2021. However, I am not satisfied that the Claimant has demonstrated that any of the other exemptions listed in the law apply. For this reason, I find that a disentitlement should be imposed from May 3, 2021 to October 15, 2021, because the Claimant was not in Canada.

### **Qualifying for benefits**

[19] I have already found that the Claimant is not entitled to EI benefits from May 3, 2021 to October 15, 2021, while she was outside Canada. The Claimant testified that she intended to return to Canada around two weeks or a maximum of one month after leaving. She said that because of the pandemic, Canada would not allow return flights from the country where she was.

[20] The Claimant said that as soon as she returned to Canada, she called Service Canada about her EI benefits. She says that she only applied for benefits in October 2021 because they suggested she do so. The Claimant said that she doesn't know why

they told her to make another application since she doesn't have the insurable hours to qualify. She confirmed that she has not worked since May 30, 2020.

– **How to qualify for benefits**

[21] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.<sup>7</sup> The Claimant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she qualifies for benefits.

[22] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”<sup>8</sup>

[23] The number of hours you have to have is 420.<sup>9</sup>

– **The Claimant's qualifying period**

[24] As noted above, the hours counted are the ones that the Claimant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.<sup>10</sup>

[25] Your **benefit period** isn't the same thing as your **qualifying period**. It is a different timeframe. Your benefit period is the time when you can receive EI benefits.

[26] The Commission decided that the Claimant's qualifying period was the usual 52 weeks. They determined that the Claimant's qualifying period went from October 25, 2020 to October 23, 2021.

[27] The Claimant doesn't dispute the Commission's decision about her qualifying period.

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<sup>7</sup> See section 48 of the EI Act.

<sup>8</sup> See section 7 of the EI Act.

<sup>9</sup> See section 7(2)(b) of the EI Act.

<sup>10</sup> See section 8 of the EI Act.

[28] There is no evidence that makes me doubt the Commission's decision. So, I accept as fact that the Claimant's qualifying period is from October 25, 2020 to October 23, 2021.

– **The hours the Claimant worked**

[29] The Commission decided that the Claimant had worked 0 hours during her qualifying period.

[30] The Claimant doesn't dispute this, and there is no evidence that makes me doubt it. So, I accept it as fact.

– **So, has the Claimant worked enough hours to qualify for EI benefits?**

[31] I find that the Claimant hasn't proven that she has enough hours to qualify for benefits because she needs 420 hours, but has worked 0 hours.

[32] EI is an insurance plan and, like other insurance plans, you have to meet certain requirements to receive benefits.

[33] In this case, the Claimant doesn't meet the requirements, so she doesn't qualify for benefits. While I sympathize with the Claimant's situation, I can't change the law.<sup>11</sup>

## **Conclusion**

[34] The Claimant isn't entitled to benefits from May 3 to October 15, 2021 when she was outside Canada. She also doesn't have enough hours from October 25, 2020 to October 23, 2021 to qualify for benefits.

[35] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section

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<sup>11</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.