



[TRANSLATION]

Citation: *AB v Canada Employment Insurance Commission*, 2022 SST 268

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

Decision

Appellant: A. B.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (436961) dated
November 19, 2021 (issued by Service Canada)

Tribunal member: Josée Langlois
Type of hearing: Videoconference
Hearing date: February 10, 2022
Hearing participant: Appellant
Decision date: February 10, 2022
File number: GE-21-2589

Decision

[1] The appeal is dismissed.

[2] I find that the Appellant isn't entitled to family caregiver benefits for children because she hasn't shown that her son, who she cared for and supported during his recovery, was critically ill.

Overview

[3] The Appellant applied for family caregiver benefits on September 1, 2021. She provided a form completed by a doctor indicating that her son's life wasn't at risk as a result of illness or injury, but that he required the care or support of a family member until October 11, 2021.

[4] On January 16, 2020, the Canada Employment Insurance Commission (Commission) found that the Appellant wasn't entitled to Employment Insurance (EI) family caregiver benefits because the medical certificate she provided didn't indicate that her son was critically ill or injured.

[5] The Appellant said that her son could not move on his own and that his injury was serious.

[6] I have to determine whether the Appellant is entitled to benefits for having cared for and supported her son who was ill.

Issue

[7] Was the Appellant's child critically ill?

Analysis

Was the Appellant's child critically ill?

[8] A claimant can get benefits to care for or support a critically ill family member if a medical doctor or nurse practitioner has issued a certificate that states that the child is a

critically ill child and requires the care or support of one or more of their family members.¹

[9] The Appellant took time off work to care for her son. She explains that her son could not go to school because of a fractured tibia and that she had to care for and support him for six weeks. She had to homeschool him and help him move around.

[10] The Commission argues that the Appellant isn't entitled to family caregiver benefits for children because the medical certificate she provided doesn't indicate that her son's life was at risk, that he was critically ill, or that there was a significant change in his health. For these reasons, the Appellant's file doesn't meet the required criteria.

[11] A critically ill child is a person who is under 18 years of age whose baseline state of health has significantly changed and whose life is at risk as a result of an illness or injury.²

[12] To get family caregiver benefits for children, the Appellant must provide a medical certificate issued by a doctor or nurse practitioner that indicates that the family member in question is critically ill. But the form entitled "Medical Certificate for Employment Insurance Family Caregiver Benefits" that the Appellant submitted shows that the doctor indicated that her son's life wasn't at risk.

[13] The form shows that the doctor didn't check off an answer to the following question on the form: "The patient's life is at risk as a result of illness or injury." He specified: [translation] "Six-year-old child who can't stay home alone, but his life isn't at risk." I can't find that the Appellant's son's life was at risk as a result of illness or injury.³

[14] At the hearing, the Appellant explained that the doctor had interpreted the notion of "risk" as a risk of "death" but that, even though he hadn't checked off this section, he had recommend to the mother that she stay home to care for her son, who was only six

¹ Section 23.2 of the *Employment Insurance Act*.

² Section 1(6) of the *Employment Insurance Regulations*.

³ GD3-16.

years old and could not move on his own because crutches weren't recommended for his age.

[15] The Appellant's son's doctor indicated that his life wasn't at risk, and this answer determines whether the Appellant's son was critically ill within the meaning of the *Employment Insurance Regulations* (Regulations). As mentioned, according to the Regulations, the definition of a critically ill child refers to the fact that the child's life is at risk as a result of an illness or injury and, according to the *Employment Insurance Act* (Act), this condition must be certified by a doctor or nurse.

[16] Although I understand that the Appellant's son required the care or support of a family member during this period and that the doctor confirmed this need, to be able to get EI family caregiver benefits for children, the doctor must certify that the child's life is at risk. That his life is threatened by his injury. The notion of risk refers to the fact that someone's life is threatened, that their existence is compromised.

[17] In other words, to show this, a medical certificate signed by a doctor or nurse practitioner must show not only that the patient requires the care or support of a family member, but that their life is at risk.

[18] Although I understand that the Appellant's son was injured, his life wasn't at risk according to his doctor, and this criterion must be met to be entitled to EI family caregiver benefits for children.

[19] I understand the Appellant's disappointment and the efforts she has made to support her son, but there are no EI benefits for this type of case, and her situation doesn't meet the requirements to get family caregiver benefits for children under the Act and Regulations, since benefits are paid for this type of benefit only when a doctor certifies that the child's life is at risk.

[20] The Appellant's son required the care or support of a family member until October 11, 2021, but his life wasn't at risk.

[21] I find that the Appellant's son wasn't critically ill within the meaning of the Act and Regulations and that the Appellant isn't entitled to benefits from August 23, 2021.

Conclusion

[22] The appeal is dismissed.

Josée Langlois
Member, General Division – Employment Insurance Section