Citation: *WC v Canada Employment Insurance Commission*, 2022 SST 398

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	W. C.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (438719) dated November 22, 2021 (issued by Service Canada)

Tribunal member:	Mark Leonard
Type of hearing:	**SUMMARY DISMISSAL**
Decision date:	February 8, 2022
File number:	GE-21-2435

Decision

[1] The case is summarily dismissed. The Appellant's case has no reasonable chance of success.

Overview

[2] The Canada Employment Insurance Commission (Commission) denied the Appellant Regular Employment Insurance (EI) benefits because it says he does not meet the eligibility requirements to qualify. The Commission says that the Appellant does not have the minimum 420 hours of insurable employment necessary to qualify for Regular EI benefits.

[3] The Appellant submitted that he does have the required hours. He says he had an employment relationship wherein he cooked for another person in exchange for pay. He says that the individual prepared a Record of Employment (RoE) and that it is proof of the hours worked.

The Commission says that there was no employment relationship and that the hours claimed as employment by the Appellant are not insurable. It says that the Appellant could not show any other qualifying hours, so it was unable to pay him benefits.

Issue

[4] The Tribunal must decide whether the appeal should be summarily dismissed.

Analysis

[5] Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the General Division must summarily dismiss an appeal if it is satisfied that it has no reasonable chance of success.

[6] Section 22 of the *Social Security Tribunal Regulations* states that before summarily dismissing an appeal, the General Division must give notice in writing to the Appellant and allow the Appellant a reasonable period of time to make submissions.

[7] Section 7 of the EI Act sets out minimum requirements to be eligible for benefits. One of the requirements is that a claimant must have a minimum number of insurable hours within a qualifying period in order to qualify. The Appellant needs at least 420 hours of insurable employment based on the unemployment rate for his region.

[8] The Act provides for a one-time credit of 300 hours to assist claimants in meeting the minimum hours required[1]. This means that the Appellant would need to have at least 120 insurable hours from employment in his qualifying period to receive benefits.

[9] The Appellant says that he has 140 hours of insurable hours arising from an employer/employee relationship with another person and therefore he qualifies for benefits.

[10] The Commission submits that the hours the Appellant claims are not in fact insurable. It says that it obtained a ruling from the Canada Revenue Agency (CRA) that deems the hours are not insurable. Therefore, the 140 hours cannot be used to meet the requirements. It adds that there is no evidence that the Appellant had any other insurable hours within the qualifying period.

[11] It is well defined law that when there is a question concerning the eligibility of a claimant's hours of insurable employment, a decision can only be made by an authorized officer of the Canada Revenue Agency.[2]

[12] The authorized officer of the CRA ruled that the Appellant was not a self-employed worker because he did not receive pay in exchange for work. It says that there are no insurable hours arising from this relationship.

[13] The Appellant confirmed to the Commission that he had no other employment hours in the qualifying period that would assist him qualifying to receive benefits. He relies solely on the hours he claims exist from the alleged employment relationship.

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[1] See Section 153.17 of the *Employment Insurance Act*.
[2] See Section 90(1) of the *Employment Insurance Act* and (*Canada (A.G.) v. Romano*, 2008 FCA 117)

[14] Given the ruling of the CRA, this means that he has zero insurable hours in his qualifying period.

[15] I notified the Appellant that based on the evidence contained in the file; I cannot see any conceivable argument that would lead to a conclusion that he has the requisite hours to qualify. I informed him of my intention to summarily dismiss the case. However, he has the option to make submissions that would show why I should not dismiss, and hear the case on its merits.

[16] The Appellant submits that the Commission has made errors handling his case. He demands disclosure from the Commission. He asked the Tribunal to obtain these documents for him. He says he will make submissions regarding the summary dismissal when he receives the documents.

[17] It is the sole responsibility of the parties to prepare their cases. The Tribunal does not demand documents from one party to a case to assist another. Further, the Appellant has had ample time to request documents from the Commission or file and Access to Information Request (ATIP) to prepare his case.

[18] Regardless of any Commission errors or omissions, or documents the Appellant wants, the determination of insurable hours is the sole purview of the CRA. It has ruled that the Appellant has no insurable hours arising from his alleged employment relationship. I have no authority to change the ruling nor can I ignore its finding. All that remains for the Appellant is to show he has insurable hours from other employment in his qualifying period.

[19] The Appellant admitted he has no other employment from which insurable hours exist to qualify for benefits. He did not offer any new information that contradicts his earlier assertion.

[20] Therefore, the Appellant has not provided any information or plausible argument that would reasonably lead me to conclude that he can demonstrate insurable employment hours in order to qualify for benefits.

[21] I am satisfied the Appellant's case has no chance of success.

Conclusion

[22] The Tribunal finds that the appeal has no reasonable chance of success; therefore, the appeal is summarily dismissed.

Mark Leonard
Member, General Division – Employment Insurance Section