



[TRANSLATION]

Citation : *GD v Canada Employment Insurance Commission*, 2022 SST 341

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

**Decision**

**Appellant:** G. D.  
**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (455527) dated February 3, 2022 (issued by Service Canada)

---

**Tribunal member:** Josée Langlois  
**Type of hearing:** Videoconference  
**Hearing date:** April 6, 2022  
**Hearing participant:** Appellant  
**Decision date:** April 6, 2022  
**File number:** GE-22-713

## **Decision**

[1] The appeal is dismissed.

[2] I find that the Commission calculated the weekly benefit rate correctly.

## **Overview**

[3] The Appellant applied for regular benefits on January 7, 2022. Three different employers sent the Commission Records of Employment for that claim.

[4] The Commission calculated the Appellant's weekly benefit rate at \$503. The Appellant disagreed with this calculation and asked the Commission to revise this rate. He says his weekly benefit rate doesn't correspond to 55% of his earnings as expected.

[5] On January 17, 2022, the Commission told the Appellant it hadn't changed the weekly benefit rate that had been established.

[6] The Appellant argues that he worked 15 weeks and that the Commission should not have averaged from the best 22 weeks, since he received weekly pay for only 15 weeks.

[7] I have to determine whether Commission calculated the weekly benefit rate correctly.

## **Issue**

[8] Was the weekly benefit rate calculated correctly?

## Analysis

### Was the weekly benefit rate calculated correctly?

[9] The weekly benefit rate is the maximum amount a claimant can receive for each week in the benefit period. The basic benefit rate is 55% of the average weekly insurable earnings.<sup>1</sup>

[10] Generally, the benefit rate is calculated using a variable number of the best weeks of insurable earnings received in the qualifying period.<sup>2</sup> The number of best weeks required for the calculation period (between 14 and 22 weeks as defined in section 14(4) of the *Employment Insurance Act* (Act)) is determined by considering the unemployment rate in the region where the claimant was ordinarily resident at the time they applied for benefits. The amount of average weekly insurable earnings is then determined using the total insurable earnings in the best weeks divided by the number of weeks specified in section 14(2) of the Act.

[11] The Appellant explained at the hearing that his weekly benefit rate isn't 55% of his insurable earnings.

[12] A first Record of Employment, dated May 10, 2021, indicates that the Appellant worked at X from April 26, 2021, to April 30, 2021, and that he worked 29 hours of insurable employment that week. A Record of Employment dated May 26, 2021, indicates that the Appellant worked for X from May 3, 2021, to May 20, 2021, and that he worked 89 hours of insurable employment in that period. Finally, a Record of Employment dated January 12, 2022, indicates that the Appellant worked at X from June 7, 2021, to August 17, 2021, and that he worked 359 hours of insurable employment in that period.

[13] These Records of Employment show that the Appellant had \$11,069 in insurable earnings.

---

<sup>1</sup> Section 14 of the *Employment Insurance Act* (Act).

<sup>2</sup> Section 8(1) of the Act.

[14] As the Commission has shown, the Appellant's qualifying period was established from November 20, 2020, to November 20, 2021. Between November 7, 2021, and December 4, 2021, the unemployment rate was 3.8% in Lévis (the Appellant's place of residence). According to the table in section 14(2) of the Act, the number of best weeks used to calculate the Appellant's benefit rate was 22 because the unemployment rate was less than 6% in Lévis and Québec in that period.<sup>3</sup>

[15] The file shows that, to establish the weekly benefit rate, the Commission considered the 22 weeks of the qualifying period with the highest insurable earnings. A total amount of \$11,069 in insurable earnings was used. The Commission explains that it divided this amount by 22 weeks to get average insurable weekly earnings of \$503.

[16] According to this calculation, the weekly benefit rate is \$503.<sup>4</sup>

$\$11,069$  (*insurable earnings in the rate calculation period*) divided  
by 22 (*divisor*) =  $\$503$  (*average weekly insurable earnings*)  $\times$  55%  
=  $\$503$  (*benefit rate*).

[17] I understand the Appellant's disappointment. According to him, the amount of his benefits doesn't reach 55% of the earnings he received, since he would like 7 of the 22 weeks in which he didn't receive earnings to be excluded from the calculation. The Appellant would like the calculation to be divided by 15 weeks rather than by the 22 weeks provided in the table in section 14(2) of the Act.

[18] As section 14(1) of the Act shows, the weekly benefit rate is calculated based on weekly insurable earnings. The Appellant correctly explains that he didn't have any earnings for 7 of the weeks used to calculate his benefit rate. In fact, the Appellant worked only 15 weeks in his qualifying period, that is, between November 20, 2020, and November 20, 2021. Section 14(2) of the Act indicates how many weeks have to be considered to determine average earnings and therefore to determine the weekly benefit rate (a table appearing in this provision clearly indicates, using the regional unemployment rate, the number of weeks to consider).

---

<sup>3</sup> GD3-12.

<sup>4</sup> GD4-3.

[19] The calculation period is the number of weeks, consecutive or otherwise, shown in the table in section 14(2) of the Act. The highest-earning weeks in the qualifying period are used to calculate the weekly benefit rate. This method is the same for all claimants.<sup>5</sup>

[20] The Appellant's weekly benefit rate is 55% considering that he didn't receive earnings for 7 of the weeks included in the calculation, and the earnings received for those 7 weeks correspond to zero.

[21] The Commission correctly calculated the Appellant's insurable earnings at \$11,069 for 22 weeks. So, the weekly benefit rate of \$503 is correct.

[22] I find that the Commission calculated the weekly benefit rate correctly.

## **Conclusion**

[23] The appeal is dismissed.

Josée Langlois  
Member, General Division – Employment Insurance Section

---

<sup>5</sup> Section 14(4) of the Act and *Manoli v Canada*, 2005 FCA 178. This decision dealt with sections 12(2) (and 14(4) of the Act), and the Court held that this provision didn't create inequalities.