



Citation: *BW v Canada Employment Insurance Commission*, 2022 SST 346

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

**Decision**

**Appellant:** B. W.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (441703) dated December 10, 2021 (issued by Service Canada)

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**Tribunal member:** Lilian Klein  
**Type of hearing:** Teleconference  
**Hearing date:** February 23, 2022  
**Hearing participants:** Appellant  
**Decision date:** March 21, 2022  
**File number:** GE-22-243

## Decision

[1] I am allowing the appeal. I agree with the Claimant.

[2] The Claimant has shown that he worked enough hours to establish a claim for Employment Insurance (EI) benefits, with a benefit period starting on September 26, 2021.

## Overview

[3] On September 24, 2021, the Claimant applied for EI regular benefits. The Canada Employment Insurance Commission (Commission) said he worked 121 hours between September 27, 2020, and September 25, 2021, but needed 420 hours at the time to establish a benefit period.<sup>1</sup>

[4] The Commission says the Claimant did not qualify for EI benefits, whether his benefit period started on September 19, 2021, or on September 26, 2021.

[5] The Claimant disagrees. He says he should be able to access the COVID-19 temporary measures that applied to claims from September 27, 2020, to September 25, 2021. According to those measures, he had 300 “deemed” hours in his qualifying period when he made his initial claim for benefits on September 24, 2021. He says he worked 121 hours while those COVID measures were in effect. He argues that adding the 300 “deemed” hours means that he had the 420 hours needed to qualify for benefits.

[6] The Claimant originally appealed the Commission’s decision to deny him an antedate to his claim, but he is no longer appealing that issue. This means that I do not need to consider it.

[7] I have to decide whether the Claimant has worked enough hours to establish a benefit period for EI regular benefits on September 26, 2021.

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<sup>1</sup> S7 of the *Employment Insurance Act* (EI Act) says the hours worked have to be “hours of insurable employment.” In this decision, when I use the word “hours,” I am referring to “hours of insurable employment.”

## Issue

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

## Analysis

[9] To qualify for EI benefits, you have to work enough hours within a certain timeframe. This timeframe is called the “qualifying period.”<sup>2</sup>

[10] The qualifying period is usually the 52 weeks before a Claimant’s benefit period would start.<sup>3</sup> The benefit period is a different timeframe; it is the period when EI benefits are paid to eligible claimants.

[11] Temporary changes to the EI Act in response to COVID-19 said that if you applied for EI regular benefits on or after September 27, 2020, you were deemed to have an additional 300 hours in your qualifying period.<sup>4</sup> The extra hours could only be used once.<sup>5</sup> These temporary measures were in effect until September 25, 2021.<sup>6</sup>

[12] The Claimant’s employment ended on September 23, 2021. According to his Records of Employment, he worked 121 in his qualifying period, which ran from September 27, 2020, to September 25, 2021. He made an initial claim for regular benefits on September 24, 2021. At that time, claimants for those benefits were allowed a one-time credit of 300 hours in their qualifying period. The Claimant says a Commission agent told him that he could get this credit as long as he applied by September 25, 2021.

[13] Under the law, benefit periods must start on a Sunday.<sup>7</sup>

[14] The Commission says it looked at whether it could start the Claimant’s benefit period on Sunday, September 19, 2021, when the credit of 300 deemed hours still applied. But he only had 91 documented hours in his qualifying period on that date.

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<sup>2</sup> See s 7 of the EI Act.

<sup>3</sup> See s 8 of the EI Act.

<sup>4</sup> See s 153.17(1) of the EI Act.

<sup>5</sup> See s 153.17(1) of the EI Act.

<sup>6</sup> See s 153.196(1) of the EI Act.

<sup>7</sup> S 10(1) of the EI Act says a benefit period must start on the later of the Sunday of the week a person stops working or the Sunday of the week in which he or she makes the initial claim for benefits.

[15] The Commission says this means that the Claimant could not establish a benefit period on September 19, 2021. He only had a total of 391 hours, including the 300 hours credit, but needed 420 hours to qualify as of that date.

[16] The Commission argues that the credit of deemed hours goes by the start of the benefit period. In the Claimant's case, the benefit period starts on September 26, 2021. This is the Sunday after the week when he had both an interruption of earnings and applied for benefits.<sup>8</sup> The Commission says he cannot use the 300 deemed hours since his benefit period starts after the temporary provision allowing an hours credit expired on September 25, 2021.

[17] I find, for the following reasons, that the Claimant's appeal should be allowed.

[18] The temporary measure relevant to his claim in section 153.17(1) of the EI Act reads as follows (*emphasis added*):

A claimant who makes an initial claim for benefits under Part 1 *on or after September 27, 2020* or in relation to an interruption of earnings that occurs on or after that date *is deemed to have in their qualifying period*

(a) if the initial claim is in respect of benefits referred to in any of sections 21 to 23.3, an additional 480 hours of insurable employment; and

(b) in any other case, *an additional 300 hours of insurable employment.*

[19] This section clearly states that claimants who apply for benefits on or after September 27, 2020, have additional hours added to their qualifying period.

[20] So, the conditions for the Claimant to get regular benefits were i) he must have an interruption of earnings; and ii) he must apply for benefits on or after September 27, 2020, and before September 25, 2021. This is the date that the temporary 300 hours credit ended.

[21] The Claimant stopped working on September 23, 2021, and applied for regular EI benefits on September 24, 2021. This means that he met the conditions to have the

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<sup>8</sup> S 10(1) of the EI Act.

300 deemed hours added to his qualifying period, from September 27, 2020, to September 25, 2021. Together with the 121 hours he worked during that period, he has just over the 420 hours he needs to qualify for EI regular benefits.

**So, does the Claimant have enough hours to qualify for EI benefits?**

[22] Yes, the Claimant has enough hours to qualify for EI benefits, with a benefit period starting on September 26, 2021.

**Conclusion**

[23] The Claimant has enough hours to qualify for EI benefits.

[24] This means that I am allowing the Claimant's appeal.

Lilian Klein  
Member, General Division – Employment Insurance Section