



Citation: *JL v Canada Employment Insurance Commission*, 2022 SST 400

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

## Decision

**Claimant:** J. L.

**Commission:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (448429) dated January 20, 2022  
(issued by Service Canada)

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**Tribunal member:** Audrey Mitchell

**Type of hearing:** Teleconference

**Hearing date:** March 21, 2022

**Hearing participant:** Claimant

**Decision date:** March 28, 2022

**File number:** GE-22-466

## Decision

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

[2] The Claimant hasn't shown that he has worked enough hours to qualify for Employment Insurance (EI) benefits.

## Overview

[3] The Claimant applied for EI benefits, but the Canada Employment Insurance Commission (Commission) decided that the Claimant hadn't worked enough hours to qualify.<sup>1</sup>

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

[5] The Commission says that the Claimant doesn't have enough hours because he needs 420 hours, but has only 200.

[6] The Claimant disagrees and says that according to the Commission's website, he was entitled to a one-time credit of insurable hours up to the end of September 2021. He says that with the insurable hours he accumulated and the one-time credit, he does qualify for EI benefits.

## Issue

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

## Analysis

### How to qualify for benefits

[8] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.<sup>2</sup> The Claimant has to prove this on a balance of probabilities.

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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."

<sup>2</sup> See section 48 of the EI Act.

This means that he has to show that it is more likely than not that he qualifies for benefits.

[9] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”<sup>3</sup> The number of hours required is 420.<sup>4</sup>

### **The Claimant’s qualifying period**

[10] As noted above, the hours counted are the ones that the Claimant worked during his qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.<sup>5</sup>

[11] 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.

[12] The Commission decided that the Claimant’s qualifying period was the usual 52 weeks. They determined that the Claimant’s qualifying period went from September 27, 2020 and September 25, 2021.

#### **– The Claimant doesn’t dispute the qualifying period**

[13] The Claimant doesn’t dispute the dates of the qualifying period the Commission identified. However he highlighted that the 52-week period was when the pandemic was a significant factor.

[14] 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 September 27, 2020 to September 25, 2021.

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<sup>3</sup> See section 7 of the EI Act.

<sup>4</sup> See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

<sup>5</sup> See section 8 of the EI Act.

## **The hours the Claimant worked**

### **– The Claimant doesn't agree with the Commission**

[15] The Commission decided that the Claimant had worked 200 hours during his qualifying period. The Claimant disputed this, saying that with the addition of a one-time credit of insurable hours under temporary measures, he has enough hours in his qualifying period to qualify for benefits.

[16] Temporary measures in the law say that a claimant “is deemed” to have an additional 300 insurable hours where they apply for regular benefits on or after September 27, 2020.<sup>6</sup> However, these temporary measures ceased to apply on September 25, 2021.<sup>7</sup>

[17] The Claimant sent a copy of a page from the Government of Canada website. It shows changes to the EI program to help claimants get regular benefits. He highlights that it states that the changes, one of which is the one-time credit of 300 insurable hours, are in effect until September 2021. He argues that one could reasonably conclude that this means the end of the month since no specific date is identified.

[18] The Claimant also sent a screenshot of a page from the Government of Canada website that still exists. It talks about temporary changes to help claimants get EI benefits as of September 27, 2020 that would be in effect for one year. The Claimant argues that one would expect the changes to be in effect until September 27, 2021.

[19] The Claimant submits that the Commission should honour information on the website about the temporary changes and give him the one-time credit of insurable hours. He states that he has provided the two examples above of information on their website showing that he qualifies for benefits. He argues that the Commission requires him to comply with what's on their website, and they should do the same.

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<sup>6</sup> See section 153.17(1)(b) of the EI Act.

<sup>7</sup> See section 153.196(1) of the EI Act

[20] The Commission acknowledges that the website did not clearly advise claimants of the end date of the temporary measures. However, they say that they have to apply the law.

[21] I agree with the Commission that it's unfortunate that the information on their website was not more precise. This is especially the case since, as the Claimant said, they would not accept vague or misleading information from him. However, in making my decision, I can't re-write the law or interpret it a way that is contrary to its plain meaning.<sup>8</sup>

[22] The Commission says that they considered if they could establish the Claimant's benefit period at an earlier date. But they say that they could not because of when the Claimant experienced an interruption of earnings.

[23] In his application for benefits, the Claimant said his last day worked was September 25, 2021. He applied for benefits on September 27, 2021. His employer asked him to return to work on September 29, 2021, which he did.

[24] The law says that a claimant has an interruption of earnings where they are laid off or separated from their job and have a period of seven or more days where they don't work or have earnings.<sup>9</sup> I find that the Claimant experienced an interruption on September 29, 2021. This means that his benefit period could not start before September 26, 2021.

[25] As noted above, the temporary measures that include the one-time credit of insurable hours ceased to apply on September 25, 2021. Because of when the Claimant applied for benefits, and when his benefit period would otherwise have started, he cannot get the credit of insurable hours.

[26] The Claimant does not dispute the insurable hours his employer listed on his record of employment. The Commission's file includes a weekly breakdown of the

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<sup>8</sup> *Canada (Attorney General) v. Knee*, 2011 FCA 301

<sup>9</sup> See section 14(1) of the *Employment Insurance Regulations* (Regulations).

insurable hours the Claimant accumulated. It shows that he worked 200 hours up to September 25, 2021.

[27] The Claimant said that after September 25, 2021, he worked on September 29, 2021. I question the Commission's breakdown because it would mean that the Claimant worked 18 hours on September 29, 2021. However, I still find that the Claimant has accumulated less than the 420 hours he needs to qualify for benefits, even if up 218 insurable hours.

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

[28] I find that the Claimant hasn't proven that he has enough hours to qualify for benefits because he needs 420 hours, but has worked less than 218 hours.

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

[30] In this case, the Claimant doesn't meet the requirements, so he doesn't qualify for benefits. While I sympathize with the Claimant's situation, I can't change the law.<sup>10</sup>

### **Conclusion**

[31] The Claimant doesn't have enough hours to qualify for benefits.

[32] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section

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<sup>10</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.