



[TRANSLATION]

Citation: *KD v Canada Employment Insurance Commission*, 2022 SST 601

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

Decision

Appellant: K. D.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (462900) dated March 21, 2022 (issued by Service Canada)

Tribunal member: Josée Langlois
Type of hearing: Videoconference
Hearing date: June 23, 2022
Hearing participants: Appellant
Decision date: June 23, 2022
File number: GE-22-1388

Decision

[1] The appeal is dismissed.

[2] I find that the Appellant doesn't have enough insurable hours of employment in her qualifying period to establish a benefit period for her January 1, 2022, claim.

Overview

[3] The Appellant applied for regular benefits on January 1, 2022. On March 21, 2022, the Canada Employment Insurance Commission (Commission) told her that she doesn't qualify for benefits because she didn't have any hours of insurable employment in her qualifying period and that she needed 420 hours to be able to get benefits.

[4] The Appellant understands that she doesn't qualify for benefits because she doesn't have enough hours of insurable employment. But, she says that she contacted an employee at a Service Canada Centre in September 2021 while she was getting parental benefits from the Quebec provincial plan. She says that the information she got then led her to believe that she would get Employment Insurance (EI) benefits after getting parental benefits. Also, she says that, if she had gotten correct information, she would have made different decisions or she would have started to search for another job earlier.

[5] I have to decide whether the Appellant has enough insurable hours of employment to establish a benefit period.

Preliminary matter

[6] The Appellant says that she doesn't believe she should be disqualified from getting EI benefits because she had a child. The Appellant doesn't dispute a provision from the *Employment Insurance Act* (Act), and she understands that she doesn't qualify because she doesn't have enough insurable hours of employment in her qualifying period. Essentially, she is asking for compensation because of an error made by an

employee at a Service Canada Centre. But, the Appellant's overall situation will be considered within the meaning of the Act.

Issue

[7] Does the Appellant have enough insurable hours of employment in her qualifying period?

Analysis

[8] To qualify for benefits and to establish a benefit period, the Appellant has to have a minimum number of insurable hours of employment in her qualifying period. The minimum number of hours normally needed depends on the regional rate of unemployment that applies to the Appellant's region, which can vary between 420 and 700 hours.¹ The table from section 7 of the Act shows how many insurable hours of employment an appellant needs to have to be able to get benefits.

[9] According to the Commission's file, the unemployment rate was 6.1% in the Appellant's region (Sainte-Julie, economic region of Montréal), and she needed 665 insurable hours of employment to qualify for benefits when she applied for benefits on January 1, 2022. But, because of the temporary measures introduced to make it easier to get access to benefits during the COVID-19 pandemic, this requirement was reduced. So, the Commission required the Appellant to have 420 insurable hours of employment instead of 665 to get benefits.

[10] The Appellant's qualifying period was established from December 27, 2020, to December 25, 2021. In this period, she had no hours of insurable employment.²

[11] The Appellant says that she stopped working on November 27, 2020, because of a shortage of work during the COVID-19 pandemic. At the time, she was pregnant and was due to give birth in February 2021. She then applied for Québec Parental Insurance

¹ Section 7 of the *Employment Insurance Act* (Act).

² Section 8(1)(a) of the Act.

Plan (QPIP) benefits. On January 1, 2022, she hadn't gone back to work, was no longer getting QPIP benefits, and applied for EI benefits.

[12] The Appellant says that an employee at the Service Canada Centre misinformed her in September 2021. She finds it unfair that she now doesn't qualify for benefits, since she would have made different decisions if she had known that she didn't qualify for EI benefits after getting QPIP benefits.

[13] She argues that the employee at the Service Canada Centre made a mistake and that it had major consequences on her family and her financial situation. She says she filed a complaint against that employee and, even if she understands that she doesn't qualify for benefits, she would like financial compensation.

[14] The Commission says that maternity benefits are managed by the QPIP in Quebec and that a principle of equivalence extends recognition to maternity or parental benefits paid by EI. It says that it has no room for discretion to grant the Appellant benefits because she doesn't meet the criteria set out in the Act.

[15] The Commission says that call centre employees don't have the power to issue decisions, and that they give information only based on the information that is already on file. It argues that it can't issue a decision in the Appellant's favour if the Act doesn't allow what she is asking for.

[16] When a benefit period is established, the insurable hours of employment from the preceding 52 weeks are normally taken into account to establish a qualifying period.³

[17] A benefit period can be extended in certain cases, but these exceptions don't apply in the Appellant's case.⁴

³ Section 8(1)(b) of the Act

⁴ Section 8(2) of the Act.

[18] The Commission also assessed the possibility of establishing a benefit period on November 28, 2021, when the Appellant stopped working instead of when she applied for benefits. But, the Appellant didn't qualify on that date either.

[19] During her qualifying period, the Appellant got benefits from the Quebec plan that manages maternity and parental benefits.

[20] Section 22(3) of the Act says the following:

When benefits are payable to a claimant for unemployment caused by pregnancy and any allowances, money or other benefits are payable to the claimant for that pregnancy under a provincial law, the benefits payable to the claimant under this Act shall be reduced or eliminated as prescribed.

[21] So, the Act says that, to get EI benefits after getting parental benefits, the Appellant has to show that she has enough hours of insurable employment corresponding to her situation and as determined by section 7 of the Act.

[22] I understand the Appellant's explanations that she took the time to look into things with Service Canada and that an employee apparently told her she could apply for benefits after getting QPIP benefits. For this reason, she says that her benefit period had been established before she got QPIP benefits, and, because she assumed that she would qualify for EI benefits after getting parental benefits, the fact that she didn't qualify led to major financial consequences.

[23] I understand her disappointment and that having a child makes her financial situation even more difficult because of her new responsibilities. Unfortunately, the facts on file show that she doesn't qualify for benefits. The Act doesn't specifically say to compensate a claimant for this reason unless they have enough hours of insurable employment like other workers in their qualifying period.

[24] As mentioned at the hearing, in Quebec, maternity and parental benefits are managed by the QPIP. To receive EI benefits after, the Appellant has to meet the criteria set out in the Act. In other words, she has to show that she has the minimum number of insurable hours of employment.

[25] Concerning the information she got from a Service Canada employee in September 2021, as I said at the hearing, if the Commission had made a mistake and benefits had already been paid, then maybe the Commission would have agreed to cancel this debt. But in the Appellant's case, she hasn't gotten benefits. The employee gave the Appellant information according to the information that was on file in September 2021. Unfortunately, even if the Appellant didn't qualify for benefits on January 1, 2022, when she applied for benefits, the Act doesn't say anything about compensation for this reason.

[26] I find that the Appellant doesn't have enough hours of insurable employment in her qualifying period and that a benefit period can't be established.

Conclusion

[27] The appeal is dismissed.

Josée Langlois
Member, General Division – Employment Insurance Section