



Citation: *MS v Canada Employment Insurance Commission*, 2022 SST 501

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

## Decision

**Appellant:** M. S.  
**Representative:** S. G.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (448944) dated January 10, 2022  
(issued by Service Canada)

---

**Tribunal member:** Linda Bell

**Type of hearing:** Videoconference  
**Hearing date:** April 13, 2022  
**Hearing participant:** Appellant's representative

**Decision date:** April 19, 2022  
**File number:** GE-22-681

## Decision

[1] I am dismissing the appeal. I disagree with the Claimant.

[2] The Claimant doesn't qualify for an extension to his benefit period. Being outside Canada, or not being able to return to Canada, are not conditions that allow for a benefit period extension under the law.

## Overview

[3] The Claimant established a claim (benefit period) for regular Employment Insurance (EI) benefits effective October 4, 2020. This benefit period ended October 2, 2021.

[4] The Claimant stopped submitting his biweekly reports when he left Canada on December 23, 2020. He was not able to return to Canada in May 2021, as originally planned. This is because of the travel ban during the global COVID-19 pandemic. He returned to Canada on October 15, 2021.

[5] The Claimant submitted an application for EI benefits on November 1, 2021. The Commission determined that he couldn't establish a new claim for EI benefits because he had zero hours of insurable employment in his qualifying period.

[6] During the reconsideration process, the Claimant requested the Commission extend his October 4, 2020, benefit period so he could collect the unclaimed weeks of benefits. The Commission determined that the Claimant didn't qualify for a benefit period extension.

[7] The Claimant appeals to the Social Security Tribunal. He states that he was stuck outside Canada because of a travel ban imposed by the Canadian government. He requests that the Commission extend his benefit period so he can receive his full weeks of entitlement.

## Issue

[8] Does the Claimant qualify for an extension of his benefit period?

## Analysis

[9] In order to receive regular EI benefits, a claimant must make an application (claim). If they meet the qualifying conditions, a benefit period is established.

[10] A benefit period is normally 52 weeks. This is the period during which benefits may be paid.<sup>1</sup> A benefit period may be extended in certain circumstances.<sup>2</sup>

[11] A claimant might qualify for an extension to their benefit period if:

- a) they were confined in a prison or similar institution, when a claimant provides proof they were not found guilty of the charge(s) that led to their incarceration;
- b) they were in receipt of earnings because of a complete severance from their employer, which prevented the payment of EI benefits;
- c) they were in receipt of workers' compensation payments for an illness or injury, which prevented the payment of EI benefits;
- d) they were in receipt of payments under a provincial law for the preventative withdrawal of work on the basis of having ceased work because continuing work would have resulted in a danger to the claimant, her unborn child or a child whom she was breast-feeding, which prevented the payment of EI benefits;
- e) a child for whom maternity or parental benefits are requested is hospitalized.<sup>3</sup>

[12] A claimant may qualify for an extension on any of the grounds listed above providing that the ground(s) occurs before the benefit period ends.

[13] In this case, the Claimant established a benefit period effective October 4, 2020. So, his 52-week benefit period ended October 2, 2021.

---

<sup>1</sup> See sections 8 and 10 of the *Employment Insurance Act* (Act).

<sup>2</sup> See section 10(10) of the Act.

<sup>3</sup> See section 10(10) of the Act.

[14] The Commission says that it can't extend the Claimant's benefit period. This is because there is no provision in Act that allows for a benefit period extension because a claimant is stranded outside of Canada.

[15] The Representative agrees that the Claimant's situation doesn't meet any of the grounds for a benefit period extension, as listed above. Instead, he says the Claimant's request for a benefit period extension ought to be approved because he was prevented from returning to Canada on May 24, 2021, due to a government-imposed travel ban.

[16] The Claimant's representative argues that it is an error not to consider that it was not the Claimant's choice to be stuck in India. He couldn't leave India due to the government imposed travel ban. The representative calls on the government to take accountability because it didn't give notice or time for the Claimant to return to Canada when it imposed the travel ban.

[17] I am sympathetic to the Claimant's situation of travelling and being stuck outside Canada during the global COVID-19 pandemic. I agree that the COVID-19 pandemic is an extraordinary situation that may never happen again. But being stuck outside Canada during a travel ban is not a reason provided by the law to allow a benefit period extension.

[18] Although the Claimant may perceive this as an unjust result, my decision is not based on fairness. Instead, my decision is based on the facts before me and the application of the law. There are no exceptions and no room for discretion. I can't interpret or rewrite the Act in a manner that is contrary to its plain meaning, even in the interest of compassion.<sup>4</sup>

## **Conclusion**

[19] The appeal is dismissed.

Linda Bell

Member, General Division – Employment Insurance Section

---

<sup>4</sup> See *Canada (Attorney General) v Knee*, 2011 FCA 301.