



Citation: *EF v Canada Employment Insurance Commission*, 2022 SST 699

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

**Decision**

**Appellant:** E. F.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (440445) dated December 1, 2021 (issued by Service Canada)

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**Tribunal member:** Raelene R. Thomas  
**Type of hearing:** Videoconference  
**Hearing date:** March 2, 2022  
**Hearing participant:** Appellant  
**Decision date:** March 7, 2022  
**File number:** GE-21-2510

## Decision

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

[2] The Claimant has not shown that she 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 she needs 420 hours, but has 135.

[6] The Claimant disagrees and says that she was told by a Service Canada agent that if she worked at least 120 hours and applied for EI benefits before the end of September 2021 she would receive 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 she has to show that it is more likely than not that she 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>

[10] The number of hours you need to have worked depends on the unemployment rate in your region when you apply for EI benefits.<sup>4</sup>

### **The Claimant’s region and regional rate of unemployment**

[11] The Commission decided that the Claimant’s region was Newfoundland and Labrador and that the regional rate of unemployment at the time was 17%.

[12] This means that the Claimant would need to have worked at least 420 hours in her qualifying period to qualify for EI benefits.<sup>5</sup>

[13] The Claimant agrees with the Commission’s decision about which region applies to her but does not agree that she needs 420 hours to qualify for benefits.

[14] The Claimant testified that she was hired to replace an employee who was on leave. The Claimant was told by a Service Canada agent that if she worked 120 hours and applied for EI benefits before the end of September 2021 she would be able to have 300 additional hours applied to her claim. The Claimant worked 135 hours from August 13, 2021 to September 28, 2021. She applied for EI benefits on September 28, 2021.

[15] In its reconsideration decision the Commission wrote the Claimant that the one-time credit (the additional 300 hours) was offered until September 19, 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* (EI Regulations).

<sup>5</sup> Section 7 of the EI Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

[16] Both the information from the Service Canada agent and in the reconsideration letter about the additional hours is wrong. Temporary changes to the EI Act said that if you apply for EI benefits on or after September 27, 2020, you're deemed to have an additional 300 hours in your qualifying period.<sup>6</sup> These extra hours can only be used once.<sup>7</sup> These temporary measures were in effect until September 25, 2021.<sup>8</sup>

[17] New temporary measures to facilitate access to benefits came into effect on September 26, 2021.<sup>9</sup> Among these measures was a new provision that regardless of the unemployment rate in a region, the maximum number of hours you need to qualify for regular and special EI benefits is 420 hours.<sup>10</sup>

[18] The Claimant applied for EI benefits on September 28, 2021. As a result, I find that she is not able to take advantage of the additional 300 hours and requires 420 hours to qualify for EI benefits.

### **The Claimant's qualifying period**

[19] As noted above, the hours counted are the ones that the Claimant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.<sup>11</sup>

[20] 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.

[21] The Commission decided that the Claimant's qualifying period was the usual 52 weeks. It determined that the Claimant's qualifying period went from October 4, 2020 to October 2, 2021.

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

<sup>7</sup> See section 153.17(2) of the EI Act.

<sup>8</sup> See section 153.196(1) of the EI Act.

<sup>9</sup> Budget Implementation Act, 2021, No. 1 S.C. 2021, c. 23. These measures will be repealed on September 25, 2022.

<sup>10</sup> See section 7(1) of the EI Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

<sup>11</sup> See section 8 of the EI Act.

[22] The Claimant does not dispute the Commission's decision about her qualifying period.

[23] 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 October 4, 2020 to October 2, 2021.

### **The hours the Claimant worked**

[24] The Commission decided that the Claimant had worked 135 hours during her qualifying period.

[25] The Claimant doesn't dispute this, and there is no evidence that makes me doubt it. So, I accept it as fact.

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

[26] I find that the Claimant has not proven that she has enough hours to qualify for benefits because she needs 420 hours, but has worked 135 hours.

[27] In this case, the Claimant doesn't meet the requirements, so she doesn't qualify for benefits.

## Conclusion

[28] I accept the Claimant's testimony that she spoke to a Service Canada agent who provided incorrect information. However, the Federal Court of Appeal has found that agents have "no power to amend the [law]," so any interpretation they make of the law does not, by itself, "have the force of law."<sup>12</sup> The Court also said that any commitment the Commission's representatives might make, "whether in good or bad faith, to act in a way other than" written in the law, is "absolutely void."<sup>13</sup> This means that even if the Claimant did receive incorrect information from Service Canada agents, what is important is what is written in the EI Act, and whether the Claimant complied with those provisions.

[29] I am sympathetic to the Claimant's circumstances, but, as tempting as it may be in such cases (and this may well be one), I am not permitted to re-write the law or to interpret it in a manner that is contrary to its plain meaning.<sup>14</sup> I must follow the law and render decisions based on the relevant legislation and precedents set by the courts.

[30] The Claimant does not have enough hours to qualify for benefits.

[31] This means that the appeal is dismissed.

Raelene R. Thomas  
Member, General Division – Employment Insurance Section

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<sup>12</sup> *Granger v. Employment and Immigration Commission*, A-684-85

<sup>13</sup> *Granger v. Employment and Immigration Commission*, A-684-8

<sup>14</sup> *Canada (Attorney General) v. Knee*, 2011 FCA 301.