



[TRANSLATION]

Citation: *JB v Canada Employment Insurance Commission*, 2022 SST 819

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

Decision

Appellant: J. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (448484) dated January 26, 2022 (issued by Service Canada)

Tribunal member: Charline Bourque

Type of hearing: Teleconference

Hearing dates: March 24, 2022
May 25, 2022

Hearing participant: Appellant

Decision date: May 26, 2022

File number: GE-22-687

Decision

[1] The appeal is dismissed.

[2] The Claimant hasn't shown that she 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.¹

[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 only 398.

[6] The Claimant disagrees and says that one of her employers, X, didn't include all her hours on her Record of Employment. She says that she is short about 40 hours and that, with these hours, she would be entitled to EI benefits.

Matter I have to consider first

[7] At my request, the Commission asked the Canada Revenue Agency (CRA) to confirm how many hours of insurable employment the Claimant had with the employer X. The CRA confirmed that the Claimant had 235 insurable hours of employment.²

[8] The Claimant confirmed that she disagreed with that ruling. She confirmed that she wanted to appeal it. I asked her whether she wanted to put this file on hold pending

¹ 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."

² See the insurability ruling dated April 21, 2022 (GD8-2).

the outcome of her appeal to the CRA. She confirmed that I could give the required decision and that she would take the steps she wanted to take at the appropriate time. So, I will give the decision in this file.

Issue

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

Analysis

How to qualify for benefits

[10] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.³ The Claimant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she qualifies for benefits.

[11] To qualify, you need to have worked enough hours within a certain time frame. This time frame is called the “qualifying period.”⁴

[12] The number of hours depends on the unemployment rate in your region.⁵

The Claimant’s region and regional rate of unemployment

[13] The Commission decided that the Claimant’s region was Central Quebec and that the regional rate of unemployment at the time was 5.4% on November 8, 2021.⁶

[14] I note that the Commission considered a rate of 7.4%—the rate for the economic region of North Western Quebec. But it has been clearly shown that the municipality where the Claimant lives is in the economic region of Central Quebec.⁷ So, the Commission made a mistake.

³ See section 48 of the EI Act.

⁴ See section 7 of the EI Act.

⁵ See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

⁶ See the economic region and the applicable rate (GD3-78 and GD3-79).

⁷ See the search results for the Claimant’s economic region (GD3-17).

[15] However, I also take into account that, because of the measures introduced in Budget 2021, the government put in place an entrance requirement of 420 hours to be able to establish a claim for benefits. This requirement applies to claims with benefit period commencement dates that fall between September 26, 2021, and September 18, 2022.

[16] This means that the Claimant would need to have worked at least 420 hours in her qualifying period to qualify for EI benefits.⁸

The Claimant's qualifying period

[17] As noted above, the hours counted are the ones the Claimant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.⁹

[18] Your **benefit period** isn't the same thing as your **qualifying period**. It is a different time frame. Your benefit period is the time when you can receive EI benefits.

[19] The Commission decided that the Claimant's qualifying period was the usual 52 weeks. It determined that the Claimant's qualifying period went from November 8, 2020, to November 6, 2021.

The hours the Claimant worked

- **The Claimant agrees with the Commission about the hours she has with two of her employers**

[20] The Commission decided that the Claimant had worked 78 hours during her qualifying period for the employer X.

⁸ 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.

⁹ See section 8 of the EI Act.

[21] The Commission decided that the Claimant had worked 85 hours during her qualifying period for the employer X. The Commission confirmed that it had added an additional 10 hours to the Record of Employment.¹⁰

[22] The Claimant doesn't dispute this, and there is no evidence that makes me doubt it. But the Claimant does dispute the number of insurable hours of employment she has with the employer X.

– **What the Canada Revenue Agency says**

[23] The CRA made a ruling on the number of hours that the Claimant worked during her qualifying period for the employer X. It said that the Claimant worked 235 hours.¹¹

[24] The Claimant disagrees with this number of hours. She says she is short about 40 hours—scheduled hours she should have been paid for. Although she wants to appeal the CRA's ruling, she told me that I had to give the decision in this file.

[25] I am bound by the CRA's ruling on the number of hours.¹² In other words, I can't decide that the number of hours is different. So, 235 is the number that I will use in deciding this appeal.

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

[26] I find that the Claimant hasn't proven that she has enough hours to qualify for benefits because she needs 420 hours, but has worked 398 hours (X – 78 hours; X – 85 hours; X – 235 hours).

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

¹⁰ The employer confirmed that, for the pay period of March 27, 2021, the Claimant was scheduled for 72.75 hours, not 62.75. So, an additional 10 hours were added to the Record of Employment, for a total of 85 hours (GD3-86 and GD3-144).

¹¹ See the CRA's ruling (GD8-2).

¹² See section 90 of the EI Act.

[28] In this case, the Claimant doesn't meet the requirements, so she doesn't qualify for benefits. While I sympathize with the Claimant's situation, I can't change the law.¹³

Conclusion

[29] I find that the Claimant doesn't have enough hours to qualify for benefits.

[30] This means that the appeal is dismissed.

Charline Bourque
Member, General Division – Employment Insurance Section

¹³ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.