



Citation: *MR v Canada Employment Insurance Commission*, 2022 SST 602

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

**Decision**

**Appellant:** M. R.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (458449) dated March 14, 2022  
(issued by Service Canada)

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**Tribunal member:** Angela Ryan Bourgeois  
**Type of hearing:** Teleconference  
**Hearing date:** June 14, 2022  
**Hearing participant:** Appellant  
**Decision date:** June 23, 2022  
**File number:** GE-22-1127

## Decision

[1] The appeal is dismissed.

[2] I agree with the Canada Employment Insurance Commission (Commission). The Appellant (Claimant) can't establish a new benefit period because he doesn't have enough earnings during his qualifying period.

## Overview

[3] The Claimant is a fisher. Although he has fished for years, he has only recently become a self-employed fisher.

[4] The Claimant established a benefit period for EI fishing benefits as of July 18, 2021. That benefit period ended on December 18, 2021.

[5] He reapplied for EI fishing benefits on December 23, 2021.

[6] The Commission decided that the Claimant couldn't establish a benefit period (in other words, start a new claim). The Commission says the Claimant doesn't qualify for EI fishing benefits because:

- his qualifying period was from July 18, 2021, to December 18, 2021,
- he didn't have enough fishing earnings during that period.

[7] The Claimant understands why he can't start a new claim. He wants me to fix it.

[8] I have to decide if the Claimant can start a new claim based on his December 23, 2021 application form.

## Issue

[9] Can the Claimant establish a new benefit period?

## Analysis

[10] To establish a benefit period for EI fishing benefits, a claimant has to prove two things:

- They do not qualify for EI regular benefits
- They have at least \$2,500 of fishing earnings.<sup>1</sup>

### El regular benefits

[11] The Claimant meets this first condition. There is no evidence in the file that he qualifies for EI regular benefits. At the hearing, he confirmed that all his earnings are from fishing.

### \$2,500 of fishing earnings

[12] The Claimant doesn't meet this second condition. This is why:-

[13] The \$2,500 of fishing earnings must be earned during a specific period of time called the qualifying period. Earnings that fall outside the qualifying period cannot be used to establish a benefit period.

#### – The Claimant's qualifying period

[14] The Claimant's qualifying period is from July 18, 2021, to December 18, 2021.

[15] For fishing benefits, the qualifying period starts on the latest of these three dates:

- the Sunday before the March 1 preceding the application for benefits
- the Sunday of the week when the fisher's last benefit period began
- the Sunday of the 31st week before the application for benefits.<sup>2</sup>

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<sup>1</sup> See section 8(2) of the *Employment Insurance (Fishing) Regulations* (Fishing Regs). The claimant has to prove this on a balance of probabilities.

<sup>2</sup> These are the three possible dates for a summer fishing claim, which is what the Claimant applied for. For the exact wording of the law, see section 8(4) of the Fishing Regs. Note that the application for

[16] The first possible date is February 28, 2021. The Claimant applied for benefits on December 23, 2021. March 1, 2021, is the March 1 before the initial claim, and the Sunday of that week is February 28, 2021.

[17] The second possible date is July 18, 2021. The Claimant's last benefit period began on Sunday, July 18, 2021. The Commission provided this date.<sup>3</sup> The Claimant doesn't dispute it.

[18] The third possible date is May 16, 2021. This is the Sunday of the 31st week before December 23, 2021.

[19] Of the three dates (February 28, 2021, July 18, 2021, and May 16, 2021), July 18, 2021, is the latest date. So the Claimant's qualifying period starts on July 18, 2021.

[20] The qualifying period ends on the Saturday of the week before the initial claim for benefits was made. For the Claimant, this is December 18, 2021.

[21] So the Claimant's qualifying period starts on July 18, 2021, and ends on December 18, 2021, as the Commission stated.

– **Earnings between**

[22] At the hearing, the Claimant confirmed that:

- All his earnings come from fishing
- The four records of employment in his file are accurate

[23] The records of employment show that the Claimant had only one fishing trip between July 18, 2021, and December 18, 2021. During that fishing trip, he had earnings of \$219.<sup>4</sup>

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benefits is called an "initial claim" in the *Employment Insurance Act* and Fishing Regs. I am using "application" because most people consider the initial claim an application form.

<sup>3</sup> See effective date of the August 1, 2021 initial application for benefits on page GD3-1, and the Commission's submissions at GD4.

<sup>4</sup> See record of employment on page GD3-15.

[24] Because the Claimant doesn't have \$2,500 of fishing earnings during his qualifying period, he doesn't have enough earnings to establish a benefit period.

### **The Claimant's position**

[25] The Claimant is very frustrated. He is upset with the management of his file and the conflicting information he received from Service Canada.

[26] But I don't have the authority to oversee how Service Canada manages its file, including the advice it gives over the telephone. My jurisdiction is limited to decisions about the entitlement to benefits.

[27] The Claimant wants me to fix things so his fishing earnings can be used to establish a new benefit period.

[28] Based on what the Claimant told me and what is in the file, this is what led to the Claimant's situation:

- After he applied for fishing benefits in May 2021, he didn't file biweekly reports.
- His account went dormant.
- So when he tried to file biweekly reports in August 2021, he was prompted to complete a new application form.
- On his application form, he clicked that he wanted to start a new claim rather than reactivate his existing claim.
- Based on the August 2021 application form, a benefit period was established as of July 18, 2021.
- The Claimant received EI fishing benefits – not realizing the impact of starting a new claim (benefit period).
- By starting a new benefit period, he also started a new qualifying period.

- This meant that all his earnings before July 18, 2021 (which was nearly all his earnings) were excluded from his qualifying period.

[29] Unfortunately, there is nothing I can do to help the Claimant. The only issue I can decide is whether he can establish a benefit period based on his December 23, 2021 application form.<sup>5</sup> Given the application date, his qualifying period, and his earnings, he simply doesn't qualify for EI fishing benefits.

[30] It may be worthwhile for the Claimant to ask the Commission if anything can be done with his July 18, 2021 benefit period.<sup>6</sup> This isn't something I can look at because it wasn't part of the Commission's reconsideration decision that is before me.

## **Conclusion**

[31] The Claimant can't establish a benefit period for EI fishing benefits because he doesn't have enough fishing earnings during his qualifying period.

[32] The appeal is dismissed.

Angela Ryan Bourgeois

Member, General Division – Employment Insurance Section

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<sup>5</sup> This is the only reconsideration decision before me. See sections 112 and 113 of the *Employment Insurance Act* that says I can only hear appeals about decisions that have been reconsidered.

<sup>6</sup> This shouldn't be taken to mean anything other than what I wrote. I am not suggesting that the Commission should or could amend the earlier benefit period, or that doing so would be beneficial for the Claimant.