



Citation: *CE v Canada Employment Insurance Commission*, 2021 SST 639

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

Decision

Claimant: C. E.
Commission: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (423188) dated May 11, 2021
(issued by Service Canada)

Tribunal member: Audrey Mitchell
Type of hearing: Teleconference
Hearing date: July 8, 2021
Hearing participant: Claimant
Decision date: July 9, 2021
File number: GE-21-991

Decision

[1] The appeal is dismissed. For the period December 9, 2020 to March 26, 2021, the Claimant is not entitled to receive employment insurance benefits while he was not in Canada.

Overview

[2] The Claimant applied for regular employment insurance (EI) benefits. Later, he left Canada to attend his mother's funeral and to care for his sister who was ill. The Claimant got sick while outside Canada. The Commission applied an exemption so that he could receive EI benefits for seven days to attend his mother's funeral. They then disentitled the Claimant from receiving benefits from December 9, 2020 to March 26, 2021, because he was not in Canada. The Claimant argued that the Commission should pay him EI benefits on compassionate grounds for the full period he was outside Canada.

Matter I have to consider first

[3] The Claimant had not read the Commission's reconsideration file or their representations. The Tribunal had sent these documents to him on June 26, 2021. In the interests of natural justice, I gave the Claimant 30 minutes to read the documents before proceeding with the hearing.

Issue

[4] Is the Claimant entitled to EI benefits while he was not in Canada?

Analysis

Is the Claimant entitled to EI benefits while he was not in Canada?

[5] I find that from December 9, 2020 to March 26, 2021, the Claimant is not entitled to receive EI benefits because he was not in Canada.

[6] Claimants are not entitled to receive benefits for any period during which they are not in Canada.¹ There are some exceptions to this rule.² The law says an exemption to visit an ill family member can be combined with an exemption to attend a funeral of a family member only when the family member is the same person.³

[7] The onus is on claimants to prove that they meet the requirements of the law.⁴ The law does not give me the power to depart from its provisions, for any reason, no matter how compelling the circumstances.⁵

[8] The Claimant said that he left Canada on December 1, 2020. He states that he left for two reasons. One was to care for his sister who was ill and the other was to attend the funeral of his mother. The Claimant sent the Tribunal copies of his mother's and sister's death certificates. His sister passed away before he had returned to Canada.

[9] The Commission applied a seven-day exemption for the Claimant's attendance at his mother's funeral. They then disentitled him to receiving EI benefits from December 9, 2020 to March 26, 2021.

[10] The Commission's reconsideration decision states that they added an additional seven-day exemption. However, in their submissions, they state that they cannot grant an additional seven-day exemption based on the law.

[11] The Claimant testified about the portion of the law dealing with exemptions for claimants who are outside Canada. He said that the law does not consider travel to other parts of the world. He said that it takes two or three days to travel to his home country.

[12] The Claimant testified that he was supposed to return to Canada on February 6, 2021. He couldn't return because he caught COVID-19. He argues that if he had

¹ Paragraph 37(b) of the *Employment Insurance Act*.

² Subsection 55(1) of the *Employment Insurance Regulations*.

³ Subsection 55(1.1) of the *Employment Insurance Regulations*.

⁴ *Canada (Attorney General) v. Peterson*, A-370-95

⁵ *Granger v. Canada Employment and Immigration Commission*, A-684-85.

returned to Canada while he had COVID-19, he would have been entitled to receive EI benefits.

[13] I accept as fact that the Claimant left Canada for the two reasons identified above. I have no reason to doubt his testimony. He has sent documents to the Tribunal confirming the events about which he testified. I sympathize with the Claimant given the circumstances he endured in 2020 and the first half of 2021. However, I agree with the Commission's submissions that he is only entitled to a seven-day exemption from the disentitlement.

[14] I note from the funeral notice/invitation for the Claimant's sister that the funeral was held after the Claimant returned to Canada. For this reason, I find that he is entitled to a seven-day exemption from disentitlement either to attend his mother's funeral, or to care for his ill sister. I do not find that the Commission can combine the exemptions for these two family members. I also do not find that the Commission can apply an exemption related to the funeral of the Claimant's sister because the Claimant returned to Canada before the funeral occurred.

[15] The Claimant may have been entitled to EI benefits if he was sick while in Canada. However, this is not relevant to my decision since on February 6, 2021, the Claimant was not in Canada. I have to apply the part of the law concerning claimants who are outside Canada.

[16] I understand that travel to different parts of the world varies in time. However, the number of days of exemption is equal for all claimants. Again, I sympathize with the Claimant who faced difficult circumstances. However, I cannot do other than what the law says, no matter the circumstances. I do not have the power to grant him EI benefits on compassionate grounds.

[17] I am not satisfied that the Claimant has demonstrated that an exemption to the disentitlement other than referred to above applies. For this reason, I find that a disentitlement should be imposed from December 9, 2020 to March 26, 2021, because the Claimant was not in Canada.

Conclusion

[18] The appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section