



Citation: *GM v Canada Employment Insurance Commission*, 2022 SST 912

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

Decision

Appellant: G. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (461992) dated March 29, 2022
(issued by Service Canada)

Tribunal member: Catherine Shaw

Decision date: May 27, 2022

File number: GE-22-1371

Introduction

[1] The Claimant applied for employment insurance (EI) regular benefits. The Canada Employment Insurance Commission (Commission) decided that the Claimant could not be paid benefits because he didn't have enough hours of insurable employment.

[2] The Claimant asked the Commission to reconsider its decision because he had an agreement with his employer to work reduced hours in the last year of his employment. He had worked full-time hours for years before that. So, he shouldn't be subject to a minimum number of hours to qualify for EI benefits.

[3] The Claimant asks the Tribunal to consider extending his qualifying period. He had hip surgery, which made him unable to perform certain aspects of his job. Though he was still able to keep working.

Issue

[4] I must decide whether the appeal should be summarily dismissed.

Analysis

[5] I must summarily dismiss an appeal if I am satisfied that it has no reasonable chance of success.¹

[6] A claimant can receive EI benefits if they qualify to receive them.² To qualify for benefits, a claimant must have the required number of hours of insurable employment in their qualifying period.³ A qualifying period can be the 52-week period immediately before the period in which benefits are paid.⁴

¹ Section 53(1) of the *Department of Employment and Social Development Act* (DESD Act).

² Section 7(2) of the *Employment Insurance Act*.

³ The minimum number of hours required to qualify for benefits is based on your region of residence and the rate of unemployment in that region at the time you applied for benefits. This is set out in the table located at section 7(2) of the *Employment Insurance Act*.

⁴ The qualifying period is set by section 8 of the *Employment Insurance Act*. A qualifying period is either the 52-week period preceding the start of a benefit period, or it can be shorter if the claimant had a previous benefit period within the past year.

[7] The Claimant applied for EI regular benefits on February 9, 2022. The Commission determined his qualifying period to be from January 30, 2021, to January 29, 2022. The Claimant required 420 hours of insurable employment to qualify for benefits.⁵

[8] The Commission determined that the Claimant had 359 hours in his qualifying period.

[9] Before summarily dismissing an appeal, I must send written notice to the Claimant and allow him time to make submissions.⁶

[10] Given that the evidence on record does not show that the Claimant had enough hours of insurable employment to qualify for benefits, I sent notice of my intention to summarily dismiss this appeal on May 19, 2022. The Claimant provided additional submissions that have been considered in this decision.

[11] The Claimant submitted to the Tribunal that he feels the minimum number of hours shouldn't apply in his case. It should only apply to people who have collected EI benefits previously. He has never collected EI benefits before because he has always been employed. Now that he is unemployed, he needs the financial support.

[12] He also believes he should qualify for an extension to his qualifying period. He had hip replacement surgery in February 2021, and wasn't able to perform the physical aspects of his job.

[13] I find the Claimant's appeal has no reasonable chance of success because an insured person must have the required number of hours of insurable employment in their qualifying period to qualify for EI benefits. It is undisputed that the Claimant only

⁵ Section 7(2) of the *Employment Insurance Act*.

⁶ Section 22 of the *Social Security Tribunal Regulations*.

accumulated 359 hours of insurable employment in his qualifying period, while he required at least 420 hours to qualify for benefits.⁷

[14] If the Claimant qualified for an extension to his qualifying period, he may have additional hours to help him establish a claim for EI benefits. However, the Claimant has not proven that he qualifies for an extension to his qualifying period.

[15] Your qualifying period can be extended if you were unable to work because of illness or injury for a time during your qualifying period.⁸ The Claimant said he had neck surgery in January 2022 but did not miss work for that reason. He also had hip surgery in February 2021. This surgery prevented him from doing the physical aspects of his job, but he acknowledges that he was able to continue working on the computer.⁹ The evidence supports that the Claimant wasn't **unable to work** during his qualifying period because of an illness or injury. So, he doesn't qualify for an extension to his qualifying period.

[16] The Claimant did not provide any additional evidence to demonstrate that he had enough insurable hours to qualify for benefits.

[17] I understand that the Claimant feels he should not be subject to a minimum number of hours to qualify for benefits. But, I am bound to apply the law no matter how compassionate the circumstances.¹⁰ The law requires claimants to meet certain conditions to qualify for EI benefits, including having a minimum number of hours of insurable employment in their qualifying period.

[18] In this case, the law is clear that the Claimant's appeal has no reasonable chance of success. It is plain and obvious on the face of the record that the appeal is

⁷ The 300 hours are deemed to be added to the Claimant's qualifying period per section 153.17(1)(b) of the *Employment Insurance Act*. There is no evidence that the Claimant worked any hours of insurable employment in his qualifying period.

⁸ See section 8(2) of the *Employment Insurance Act*.

⁹ See GD2-8.

¹⁰ *Canada (Attorney General) v. Knee*, 2011 FCA 301, at para 9.

bound to fail, regardless of the evidence or arguments that the Claimant could present at a hearing. Therefore, I must summarily dismiss his appeal.

Conclusion

[19] I find that the appeal has no reasonable chance of success; therefore the appeal is summarily dismissed.

Catherine Shaw
Member, General Division – Employment Insurance Section