



Citation: *MM v Canada Employment Insurance Commission*, 2022 SST 1003

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

## **Decision**

**Appellant (Claimant):** M. M.

**Respondent (Commission):** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (437214) dated October 20, 2021 (issued by Service Canada)

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**Tribunal member:** Gerry McCarthy

**Type of hearing:** Teleconference

**Hearing date:** May 4, 2022

**Hearing participant:** Appellant

**Decision date:** May 4, 2022

**File number:** GE-22-1006

## **Decision**

[1] The appeal is dismissed.

## **Overview**

[2] The Claimant established an initial benefit period for regular Employment Insurance (EI) benefits on October 4, 2020. The Claimant accumulated 762 insurable hours during her qualifying period. At the time of her claim, the Claimant lived in the Toronto region, where the unemployment rate was 13.7 percent.

[3] The Claimant received regular EI benefits from December 20, 2020, until July 17, 2021. On July 26, 2021, the Claimant submitted a renewal application requesting 15-weeks of EI maternity benefits followed by 61-weeks of extended parental benefits.

[4] The Claimant's child was born on July 30, 2021. The Claimant's claim was renewed effective August 1, 2021. The Claimant received 9-weeks of maternity benefits from August 1, 2021, to the end of her benefit period on October 2, 2021.

[5] The Commission says the Claimant's benefit period ended October 2, 2021. Regretfully, the Commission says the Claimant could not receive the maximum of 15-weeks of maternity benefits or any parental benefits.

[6] The Claimant says that COVID-19 caused the shutdown of the school where she worked in March 2020. She says when the school re-opened the class sizes were significantly reduced and fewer educators were needed. She further says she had to take a leave of absence from the employer owing to the health risks in a new sanitation job. She asks that she be provided all her maternity and parental benefits in the interest of compassion.

## **Issue**

[7] Did the Commission correctly calculate the number of entitlement weeks in the Claimant's benefit period?

## Analysis

[8] The law establishes the maximum number of weeks for which EI benefits may be paid in a benefit period, based on the number of insurable employment hours accumulated in the qualifying period and the applicable regional rate of unemployment.<sup>1</sup>

[9] The law further establishes the maximum number of weeks for each type of special benefits that can be paid in one benefit period. The individual maximum number of weeks are 15-weeks of sickness benefits, 15-weeks of maternity benefits, 35-weeks of standard parental benefits or 61-weeks of extended parental benefits.<sup>2</sup>

[10] Finally, the law establishes that when special benefits are combined with regular benefits in the same benefit period, the total number of weeks of benefits shall not exceed 50-weeks subject to the applicable maximum for each type of benefit.<sup>3</sup>

### **Did the Commission correctly calculate the number of entitlement weeks in the Claimant's benefit period?**

[11] I find the Commission correctly calculated the number of entitlement weeks in the Claimant's benefit period for the following reasons:

[12] First: The Claimant received a combination of regular and maternity benefits in her benefit period and therefore her total number of weeks could not exceed 50-weeks. I realize the Claimant requested some compassion on this matter so she could receive additional maternity and parental benefits. However, I must apply the law to the evidence. In other words, I cannot ignore the law even for compassionate reasons.<sup>4</sup>

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<sup>1</sup> Subsection 12(2) of the *Employment Insurance Act*.

<sup>2</sup> Subsection 12(3) of the *Employment Insurance Act*.

<sup>3</sup> Subsection 12(6) of the *Employment Insurance Act*.

<sup>4</sup> *Knee v Canada (Attorney General)*, 2011 FCA 301

[13] Second: The Commission properly calculated the Claimant's insurable hours and applied the correct regional rate of unemployment (13.7 percent) when they determined the number of entitlement weeks. Furthermore, the Commission correctly renewed the Claimant's claim when she requested maternity benefits. In summary, the Claimant was issued a total of 32-weeks of regular EI benefits followed by 9-weeks of EI maternity benefits before reaching the end of her benefit period on **October 2, 2021**.

### **Additional Testimony from the Claimant**

[14] During the hearing, the Claimant explained that she felt like she had been penalized for having a baby. The Claimant further testified she had previously been willing to work, but the call-in hours hadn't been available from the employer. I recognize the Claimant was frustrated and unhappy she could only receive 9-weeks of EI maternity benefits. I do empathize with the Claimant on this matter. Nevertheless, I cannot ignore the law even for the most compassionate reasons.

### **Conclusion**

[15] The appeal is dismissed.

*Gerry McCarthy*

Member, General Division – Employment Insurance Section