



Citation: *MG v Canada Employment Insurance Commission*, 2022 SST 1196

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

Decision

Appellant: M. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (424889) dated June 4, 2021
(issued by Service Canada)

Tribunal member: Linda Bell

Type of hearing: Questions and answers

Decision date: October 31, 2022

File number: GE-21-2186

Decision

[1] I am dismissing the appeal.

[2] The Appellant (Claimant) hasn't shown he has enough hours to qualify for Employment Insurance (EI) benefits as of March 21, 2021.

Overview

[3] On March 25, 2021, the Claimant submitted an application for regular EI benefits.

[4] The Commission decided the Claimant didn't have enough hours of insurable employment to qualify for benefits.¹ This is because it determined he had zero hours of insurable employment but needs 420 hours to establish a claim (benefit period), effective March 21, 2021.²

[5] The Commission maintained their decision upon reconsideration. The Claimant disagreed and submitted an appeal to the Social Security Tribunal's (Tribunal) General Division Employment Insurance section (appeal GE-21-1072). The Member assigned to that appeal issued his decision on August 9, 2021. That Member found the Claimant didn't show he had enough hours to qualify for EI benefits. The Claimant appealed this decision to the Tribunal's Appeal Division.

[6] The Member of the Appeal Division allowed the appeal. She returned the matter to the General Division with the following direction.

I am returning the matter to the General Division for a reconsideration, with directions that it obey the matter until the parties receive a final determination on CRA's ruling. The General Division is bound by that determination.³

¹ Section 7 of the *Employment Insurance Act* (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 As part of Budget 2021, the Government of Canada announced that a national common entrance requirement of 420 hours of insurable employment is required to establish a claim for regular or special benefits. See also section 7 of the Act.

³ See *MFG v Canada Employment Insurance Commission*, AD-21-293.

[7] The Claimant obtained an insurability ruling from the Canada Revenue Agency (CRA). He then appealed CRA's insurability ruling to the Tax Court. On October 7, 2022, the Tax Court rendered its decision confirming the Claimant's employment outside Canada, from November 1, 2019, to August 31, 2020, was **not** insurable employment under section 5 of the *Employment Insurance Act (Act)*.⁴

[8] Upon receipt of the Tax Court's decision, I scheduled the hearing to proceed by way of written question and answer. I asked the Claimant to provide any remaining relevant evidence he wished to rely upon, no later than October 20, 2022.

Issues

[9] Does the Claimant have enough hours to qualify for EI benefits starting March 21, 2021?

Analysis

Qualifying for benefits

[10] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.⁵ The Claimant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he qualifies for benefits.

[11] To qualify for regular or special benefits a claimant has to show the following:

[12] (a) They have had an interruption of earnings, and

[13] (b) have the number of hours required to establish a claim for benefits.⁶

[14] To qualify for regular benefits on March 20, 2021, the Claimant needs to have at least 420 hours of insured employment, within a certain timeframe called the qualifying

⁴ See *MFG v The Minister of National Revenue*, 2022-384(EI).

⁵ See section 48 of the Act.

⁶ See section 7(2)(a) and (b) of the Act.

period.⁷ I will explain what the qualifying period is in more detail further down in this decision.

– **Interruption of earnings**

[15] An interruption of earnings occurs when the following criteria are met:

[16] the claimant is laid off or terminated from their employment,

[17] the claimant doesn't work for seven consecutive days for that employer, and

[18] the claimant doesn't receive any earnings arising from that employment.⁸

[19] An interruption of earnings occurs at the beginning of the week in which the claimant's earnings reduce more than 40% of their normal weekly earnings.⁹

[20] Neither party disputes the Claimant had an interruption of earnings in the week starting on March 24, 2021.

[21] The Claimant submitted his application for EI benefits on March 25, 2021. So the Commission considered his claim to be from the Sunday of the week he filed, which is March 21, 2021.¹⁰

– **The Claimant's hours in the qualifying period**

[22] As noted above, the hours counted are the ones the Claimant worked in insurable employment during his qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.¹¹

[23] Your **benefit period** isn't the same thing as your **qualifying period**. It is a different timeframe. Your benefit period is the time when you can start a claim to receive

⁷ Subsection 6(1) of the Act defines what a major attachment Claimant means.

⁸ See section 14(1) of the *Employment Insurance Regulations* (Regulations).

⁹ See section 14(2) of the Regulations. Section 2 of the Act states that a week is seven consecutive days and starts on a Sunday.

¹⁰ Section 10 of the Act states that a claim (benefit period) starts on the later of the Sunday of, (a) the week in which the interruption of earnings occurs, and (b) the week in which the application (initial claim) for benefits is made.

¹¹ See section 8 of the Act.

EI benefits. The qualifying period is the period considered when determining the Claimant's hours.

[24] The Commission decided the Claimant's qualifying period is from March 22, 2020, to March 20, 2021. The Commission also determined the Claimant had zero hours of insured employment during this period.

[25] The Claimant doesn't dispute his qualifying period is from March 22, 2020, to March 20, 2021. Instead, he disputes whether he has enough insurable hours to qualify for EI benefits.

[26] As set out above, the Tax Court confirmed the Claimant's employment from November 1, 2019, to August 31, 2020, was not insurable employment under section 5 of the *Employment Insurance Act* (Act).¹² This means the hours worked at this employment **cannot** be considered as hours for EI benefits.

[27] The Claimant confirmed he has no other insurable employment during his qualifying period. So I find as fact, the Claimant has zero hours in his qualifying period.

Does the Claimant have enough hours to qualify for EI benefits as of March 21, 2021?

[28] No. I find the Claimant has failed to show he has enough hours to qualify for regular EI benefits as of March 21, 2021. This is because he needs a total of 420 hours in his qualifying period but has zero hours.

[29] Employment Insurance is an insurance plan. Like other insurance plans, you have to meet the entitlement requirements to receive benefits. In this case, the Claimant doesn't meet the hour requirements, so he doesn't qualify for benefits.

Other arguments

[30] The Tribunal does not have the authority to consider the Claimant's request to transfer his contributions from the Irish Public Single Pension Scheme to the Canada

¹² See *MFG v The Minister of National Revenue*, 2022-384(EI).

Pension Plan. So if the Claimant wishes to pursue this request, he may make such a request through the CRA or the Court who holds jurisdiction.

[31] The Claimant also requested the Tribunal consider his claim under the changes to maintain flexible access to Employment Insurance Benefits. But those changes do not provide EI benefits for Claimants with foreign employment that is not insurable.

[32] I also wish to acknowledge the Claimant's October 25, 2022, email. In that email he states a copy of the form he submitted to CRA to appeal the insurability ruling was not in the RGD10 document. I recognize that the CRA's ruling and the Tax Court decision are the documents relevant to my decision, not CRA's form that he submitted to appeal the ruling.

Conclusion

[33] The Claimant doesn't have the insurable hours required to qualify for regular EI benefits as of March 21, 2021.

[34] This means the appeal is dismissed.

Linda Bell

Member, General Division – Employment Insurance Section