



Citation: *PJ v Canada Employment Insurance Commission*, 2022 SST 1279

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

# **Decision**

**Appellant:** P. J.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (446205) dated January 12, 2022 (issued by Service Canada)

---

**Tribunal member:** Amanda Pezzutto

**Type of hearing:** Teleconference

**Hearing date:** June 27, 2022

**Hearing participant:** Appellant

**Decision date:** June 29, 2022

**File number:** GE-22-1112

## Decision

[1] P. J. is the Claimant. The Canada Employment Insurance Commission (Commission) says she isn't entitled to Employment Insurance (EI) benefits while she was out of Canada. The Claimant is appealing this decision to the Social Security Tribunal (Tribunal).

[2] I am allowing the Claimant's appeal in part. She is entitled to EI benefits for the first seven days she was out of Canada. This is because she was visiting a seriously ill family member. But she isn't entitled to EI benefits for the rest of the time she was out of Canada.

## Overview

[3] The Claimant applied for EI benefits in early November 2021. She told the Commission that she was leaving Canada on November 3, 2021. She hadn't yet planned her return date. The Commission decided that the Claimant wasn't entitled to EI benefits while she was out of Canada.

[4] The Commission says the Claimant can't get EI benefits while she was out of Canada. The Commission says she hasn't shown that her reasons for travelling out of Canada falls under one of the exceptions allowed in the law.

[5] The Claimant disagrees. She says she should get EI benefits for the entire time she was out of Canada. She was visiting her mother, who was seriously ill. She also says that she kept looking for work remotely, even though she was out of Canada. She says that EI law doesn't reflect the modern reality of remote job searching and remote work.

## Issue

[6] I must decide if the Claimant has proven that she was entitled to EI benefits while she was out of Canada.

## Analysis

[7] Usually, you cannot receive EI benefits if you are outside of Canada.<sup>1</sup> There are some exceptions. The *Employment Insurance Regulations* has a list of the exceptions. If you are outside of Canada for one of the following reasons, you might be able to receive benefits:

- To undergo medical treatment that is not readily or immediately available in Canada;
- To attend a funeral of a family member;
- To travel with a family member while they are getting medical treatment outside of Canada;
- To visit a seriously ill or injured family member;
- To attend a job interview; or
- To conduct a job search.<sup>2</sup>

[8] It is always your responsibility to prove that you meet all of the requirements to receive EI benefits.<sup>3</sup> This means that you have to prove that one of these exceptions apply to you if you want to collect benefits while you are outside of Canada.<sup>4</sup>

### Why was the Claimant out of Canada?

[9] The Claimant says she travelled out of Canada to visit her family. She hadn't seen her family since 2019 because she was following COVID-19 travel restrictions. She says her mother and other family members were seriously ill.

---

<sup>1</sup> Paragraph 37(b) of the *Employment Insurance Act*.

<sup>2</sup> Subsection 55(1) of the *Employment Insurance Regulations*.

<sup>3</sup> Subsection 49(1) of the *Employment Insurance Act*.

<sup>4</sup> *Canada (Attorney General) v Peterson*, A-370-95.

[10] The Commission says the Claimant isn't credible when she says she had to visit seriously ill family members. The Commission says the Claimant originally said she was visiting family members, but didn't say that her family members were ill.

[11] The evidence in the appeal file is contradictory. The Claimant originally told the Commission that she was travelling out of Canada for a vacation. In the original questionnaire, she doesn't say that any of her family members were ill. In the letter with her reconsideration request, she says that she is visiting family, but doesn't say that any of her family members were ill. According to the conversation notes from a Commission officer, the Claimant said "they are healthy and not sick."

[12] But on her notice of appeal and at the hearing, the Claimant said she was visiting family members who were seriously ill. She said her mother was ill, and her father and grandmother also had health problems.

[13] The Claimant said she didn't tell the Commission about her family's health because she didn't know this information was necessary. She also said she didn't understand the Commission's questions during the reconsideration process. When she told the Commission officer, "they are healthy and not sick," she thought she was telling the Commission officer about her own health. She didn't understand that the Commission officer was asking about her family's health.

[14] I understand that the Commission says the Claimant has changed her statement, and that this means her later statements about her family's health aren't credible. But I believe the Claimant. I think her explanation is plausible. I believe that she didn't know what kind of information the Commission needed to make decisions about her entitlement while she was out of Canada. And the Commission officer's notes don't show the exact questions the officer asked, so I think it is plausible that the Claimant didn't understand the questions. I think it is plausible that she thought the Commission officer was asking about her own health.

[15] So I believe that the Claimant travelled out of Canada to visit family members who are seriously ill. I will look at how the exception for travelling to visit seriously ill family members applies to the Claimant.

[16] The Claimant also says that she was looking for work while she was outside of Canada. But at the hearing, she said she was looking for work with Canadian employers. She told the Commission that she could have returned to Canada at any time if she found a job.

[17] I think this shows that the Claimant didn't travel out of Canada to look for work. She simply happened to be looking for work while she was out of Canada. So, I won't look at whether the exception for travelling out of Canada for a job search applies to the Claimant.<sup>5</sup>

### **Is the Claimant entitled to EI benefits during the entire time she was out of Canada?**

[18] I agree that the Claimant was out of Canada to visit seriously ill family members. The law says you can get EI benefits for up to seven consecutive days if you travel out of Canada for this reason. So, I find that the Claimant is entitled to EI benefits for the first seven days of her absence from Canada.

[19] She left Canada on November 4, 2021. So the first full day of her absence from Canada was November 5, 2021. Seven consecutive days run from November 5 to November 11, 2021. So, I find that the Claimant is entitled to EI benefits from November 5 to November 11, 2021. But the seven consecutive days allowed by law ends as of November 12, 2021. The Claimant was still out of Canada on November 12, 2021. She returned to Canada on February 21, 2022. This means the last full day of her absence from Canada was February 20, 2022.

---

<sup>5</sup> See *DC v Canada Employment Insurance Commission*, 2016 SSTADEI 214.

[20] This means I have to decide if the Claimant is also entitled to EI benefits between November 12, 2021 and February 18, 2022.<sup>6</sup>

[21] The Claimant says she should still get EI benefits for the rest of the time she was out of Canada. She says she continued to look for work. She says she has contributed to the EI fund, so she should get support when she needs it. She also says the law is out of date and doesn't reflect the modern reality of remote work.

[22] I understand the Claimant's arguments. I agree that the work world has changed a lot since Parliament wrote the laws governing the EI program. I agree that remote job searches and remote work are common today. But even though I understand the Claimant's arguments on this point, I still have to follow the law.

[23] I don't have the authority to change EI law. Instead, I have to apply the law according to its plain meaning.<sup>7</sup> The law starts with a general rule that you can't get EI benefits if you're out of Canada. Then, the law adds a few exceptions to the general rule. If you can't prove that one of the exceptions applies in your case, then you can't get EI benefits while you're out of Canada.

[24] So this means the Claimant can only get EI benefits if she can prove that she falls under one of the exceptions. She has shown that she was visiting seriously ill family members, so this exception applies for the first seven days of her absence. But she hasn't shown that any of the exceptions apply for the rest of the time she was out of Canada.

[25] This means the Claimant isn't entitled to EI benefits from November 12, 2021 until February 18, 2022.

---

<sup>6</sup> This is because entitlement to EI benefits runs from Mondays to Fridays. You don't get EI benefits for weekends, so February 18, 2022 is the last full weekday the Claimant was out of Canada.

<sup>7</sup> *Canada (Attorney General) v Knee*, 2001 FCA 301, at paragraph 9.

## **Conclusion**

[26] I am allowing the Claimant's appeal in part. She is entitled to EI benefits for the first seven days she was out of Canada. But she isn't entitled to EI benefits for the rest of the time she was out of Canada.

Amanda Pezzutto  
Member, General Division – Employment Insurance Section