



Citation: *Canada Employment Insurance Commission v CR*, 2023 SST 111

## **Social Security Tribunal of Canada Appeal Division**

# **Decision**

**Appellant:** Canada Employment Insurance Commission  
**Representative:** Isabelle Thiffault

**Respondent:** C. R.

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**Decision under appeal:** General Division decision dated December 2, 2022  
(GE-22-1758)

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**Tribunal member:** Shirley Netten

**Decision date:** February 2, 2023

**File number:** AD-22-963

## **Decision**

[1] Leave to appeal is granted and the appeal is allowed. C. R. (the Claimant) received employment insurance (EI) benefits totalling \$19,422. She was entitled to 36 weeks of benefits, at a rate of \$532 per week, for a total of \$19,152. This means that her remaining debt will be \$270.

## **Overview**

[2] For a claim starting in February 2020, the Canada Employment Insurance Commission (Commission) originally gave the Claimant 36 weeks of benefits at a rate of \$506 per week. Later, the Commission said that she was entitled to only 18 weeks of benefits and had to pay back \$9,108.

[3] The Claimant appealed. The General Division decided that the Claimant should get 35 weeks of benefits at a rate of \$522 per week.

[4] When the General Division calculated the Claimant's remaining debt, it thought that she had received a total of \$18,216 in benefits. The Commission applied for permission to appeal the decision, because its records showed that the Claimant had received \$19,422 in benefits.

[5] The parties attended a case conference to discuss the benefits received, as well as the Claimant's entitlement.

## **The parties agree on the outcome of the appeal**

[6] The Claimant and the Commission agree that the Claimant received \$19,422 in EI benefits, and that she was entitled to \$19,152 in EI benefits for her 2020 claim. They agree to a decision:

- giving the Commission permission to appeal;
- allowing the appeal;

- finding that the General Division made errors;
- deciding the Claimant's entitlement to 36 weeks of benefits at a rate of \$532 per week; and
- concluding that the remaining overpayment is \$270.

## **I accept the proposed outcome**

[7] The General Division found as a fact that the Claimant received \$18,216 in benefits, even though the evidence showed that she received \$19,422 in benefits.<sup>1</sup> This was an error of fact, allowing the Appeal Division to intervene.

[8] The General Division also overlooked details in the Canada Revenue Agency (CRA) ruling indicating that it had accepted that the Claimant worked 35 hours per week, or 1820 hours in 52 weeks (not 53 weeks).<sup>2</sup> Based on this interpretation of the CRA ruling, I accept the parties' agreement that the Claimant was entitled to 36 weeks of benefits,<sup>3</sup> at the rate of \$532 per week.<sup>4</sup>

## **Conclusion**

[9] The appeal is allowed. The Claimant received EI benefits totalling \$19,422. She was entitled to 36 weeks of benefits, at a rate of \$532 per week, for a total of \$19,152. The Claimant was overpaid by \$270.

Shirley Netten  
Member, Appeal Division

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<sup>1</sup> The extra \$1,206 was paid in March 2022 (\$67 x 18 weeks), as seen at GD9-3.

<sup>2</sup> The CRA relied in its decision on section 10(4) and (5) of the *Employment Insurance Regulations*. In the Claimant's situation, the use of these provisions means that the CRA deemed the Claimant to have worked 35 hours per week.

<sup>3</sup> See Schedule 1 (column for a regional rate of unemployment below 6%) of the *Employment Insurance Act*.

<sup>4</sup> 55% of weekly earnings of \$967.18 (\$50,293.20 divided by 52 weeks)