



Citation: *FM v Canada Employment Insurance Commission*, 2023 SST 978

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

Decision

Appellant: F. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (565659) dated January 5, 2023 (issued by Service Canada)

Tribunal member: Peter Mancini

Type of hearing: Teleconference

Hearing date: May 15, 2023

Hearing participants: Appellant
Respondent

Decision date: May 23, 2023

File number: GE-23-207

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.

[2] The Appellant hasn't shown that he has worked enough hours to qualify for Employment Insurance (EI) benefits.

Overview

[3] The Appellant applied for EI benefits, but the Canada Employment Insurance Commission (Commission) decided that the Appellant hadn't worked enough hours to qualify.¹

[4] I have to decide whether the Appellant has worked enough hours to qualify for EI benefits.

[5] The Commission says that the Appellant doesn't have enough hours because he needs 490 hours but has only 448.

[6] The Appellant disagrees and says that he was told by his HR Representative, a federal employee at Citizenship and Immigration that he would have enough hours to qualify. He feels he should be permitted to rely on this information. He believes if the information given to him was wrong, then he should be allowed to collect EI benefits as it was a mistake on the part of the Government.

Issue

[7] Has the Appellant worked enough hours to qualify for EI benefits?

¹ Section 7 of the *Employment Insurance Act* (EI 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."

Analysis

How to qualify for benefits

[8] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.² The Appellant 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.

[9] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”³

[10] The number of hours depends on the unemployment rate in your region.⁴

The Appellant’s region and regional rate of unemployment

[11] The Commission decided that the Appellant’s region was Eastern nova Scotia Region and that the regional rate of unemployment at the time was 11.6%.

[12] This means that the Appellant would need to have worked at least 490 hours in his qualifying period to qualify for EI benefits.⁵

– The Appellant agrees with the Commission

[13] The Appellant agrees with the Commission’s decisions about which region and regional rate of unemployment apply to him.

[14] There is no evidence that makes me doubt the Commission’s decision. So, I accept as fact that the Appellant needs to have worked 490 hours to qualify for benefits.

² See section 48 of the EI Act.

³ See section 7 of the EI Act.

⁴ See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

⁵ Section 7 of the EI Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

The Appellant's qualifying period

[15] As noted above, the hours counted are the ones that the Appellant worked during his qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.⁶

[16] 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 receive EI benefits.

[17] The Commission decided that the Appellant's qualifying period was the usual 52 weeks. It determined that the Appellant's qualifying period went from October 17th, 2021, to October 15, 2022.

The Appellant agrees with the Commission

[18] The Appellant has not disputed the Commission's decision about his qualifying period.

[19] There is no evidence that makes me doubt the Commission's decision. So, I accept as fact that the Appellant's qualifying period is from October 17th, 2021, to October 15, 2022.

The hours the Appellant worked

The Appellant agrees with the Commission

[20] The Commission decided that the Appellant had worked 448 hours during his qualifying period.

[21] The Appellant doesn't dispute this, and there is no evidence that makes me doubt it. So, I accept it as fact.

⁶ See section 8 of the EI Act.

So, has the Appellant worked enough hours to qualify for EI benefits?

[22] I find that the Appellant hasn't proven that he has enough hours to qualify for benefits because he needs 490 hours, but has worked 448 hours

[23] The Appellant has argued that he relied on information from a federal civil servant who told him he would have enough hours to qualify for benefits. That person did not work for the Commission but for Citizenship and Immigration, his former employer. I understand his frustration in this regard. However, decisions have held that even if it was the Commission that provided incorrect information to the Appellant I cannot alter, waive or ignore the requirement for sufficient insurable weeks of employment.⁷ If misinformation from the Commission cannot be relied on by the Appellant to provide him an exemption from the law, then I cannot see how misinformation from a different government agency would allow the Appellant to be exempt from the hourly requirement as set out in the act.

[24] EI is an insurance plan, and, like other insurance plans, you have to meet certain requirements to receive benefits.

[25] In this case, the Appellant doesn't meet the requirements, so he doesn't qualify for benefits. While I sympathize with the Appellant's situation, I can't change the law.⁸

Conclusion

[26] The Appellant doesn't have enough hours to qualify for benefits.

[27] This means that the appeal is dismissed.

Peter Mancini

Member, General Division – Employment Insurance Section

⁷ CUBs 18424,18108,17884,17594,16914,14206,11548,52040,52651.

⁸ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.