



Citation: *AR v Canada Employment Insurance Commission*, 2023 SST 990

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

Decision

Appellant: A. R.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (581351) dated April 25, 2023
(issued by Service Canada)

Tribunal member: Catherine Shaw
Type of hearing: Teleconference
Hearing date: July 6, 2023
Hearing participant: Appellant
Decision date: July 7, 2023
File number: GE-23-1195

Decision

[1] The appeal is dismissed. This means I disagree with the Appellant.

[2] The Appellant's appeal cannot be successful. He doesn't meet the basic conditions to qualify for EI benefits for self-employed workers. Namely, he didn't have an agreement with the Commission to have employment insurance for his self-employment.

Overview

[3] The Appellant owns his business. He's been self-employed in this business for a long time. Last year, he had a severe head injury. Even though the effects of it lingered, he still worked through it. Then, he was injured again. His doctor put him off work for at least a few months. He applied for EI benefits for self-employed workers and asked for sickness benefits.

[4] The Canada Employment Insurance Commission (Commission) decided the Appellant couldn't be paid EI benefits because he didn't enter into a self-employment agreement with the Commission.

[5] The Appellant says that he didn't know he had to have an agreement with the Commission to get EI benefits. He still hasn't been able to return to his job and needs the financial support while he is recovering from his injuries.

Issue

[6] I must decide whether the Appellant qualifies to receive EI benefits for self-employed workers. To do this, I will look at whether he meets the qualifying conditions.

Analysis

[7] If you are self-employed, you may claim special EI benefits. This means a self-employed worker can claim sickness benefits.¹

¹ See sections 152.04 and 152.05 of the *Employment Insurance Act* (EI Act).

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

[9] Self-employed workers don't use hours to qualify for EI benefits. They can qualify for EI benefits by first entering into an agreement with the Commission at least one year before they claim benefits. After they have entered into this agreement, they must earn a minimum amount of earnings to qualify for EI benefits.²

[10] The agreement is a necessary part of qualifying for benefits for self-employed workers. Once a self-employed worker enters into an agreement with the Commission, they become responsible for paying employment insurance premiums.³

Does the Appellant qualify for benefits for self-employed workers?

[11] No, he doesn't qualify for benefits for self-employed workers. He didn't enter into an agreement with the Commission before he applied for benefits.

[12] The Appellant says he didn't know that he had to enter into an agreement in order to get EI benefits. He would have made the agreement and paid EI premiums, if he had known. He can't work for health reasons. He asks to be paid sickness benefits to support him while he recovers.

[13] The Commission says the Appellant doesn't have an agreement for employment insurance for his self-employment. So, he doesn't meet the basic qualifying conditions for benefits for self-employed workers.

[14] The basic facts aren't in dispute. The Appellant didn't have an agreement with the Commission before he applied for benefits. He was self-employed. He didn't pay EI premiums on his income. He didn't work as an employee in insurable employment in the past year.

² See section 152.07 of the EI Act.

³ See section 152.21 of the EI Act.

[15] The law is clear. To qualify for benefits for self-employed workers, you have to have an agreement with the Commission. The agreement has to be in place for at least one year before you apply.

[16] Both parties agree that the Appellant didn't have an agreement with the Commission. There is no evidence to contradict this, so I accept it as fact. The Appellant cannot qualify for benefits for self-employed workers.

[17] I understand the Appellant will be disappointed with this result. He is experiencing significant financial need because he is unable to work. But, I have to follow the law when I make my decisions. I cannot vary the requirements of the law, even for compassionate reasons.⁴

Conclusion

[18] The appeal is dismissed.

Catherine Shaw
Member, General Division – Employment Insurance Section

⁴ See *Canada (Attorney General) v Knee*, 2011 FCA 301, at paragraph 9.