



Citation: *LS v Canada Employment Insurance Commission*, 2023 SST 1024

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

## Decision

**Appellant:** L. S.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (576686) dated March 28, 2023 (issued by Service Canada)

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**Tribunal member:** Catherine Shaw  
**Type of hearing:** Teleconference  
**Hearing date:** May 25, 2023  
**Hearing participant:** Appellant  
**Decision date:** May 26, 2023  
**File number:** GE-23-1117

## Decision

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

[2] The Appellant's appeal cannot be successful. She can only be paid benefits during her parental window. Her parental window ended on December 24, 2022. So, she cannot be paid parental benefits past that date.

## Overview

[3] The Appellant's child was born on December 21, 2021. She took several weeks of vacation from work after the birth, then claimed maternity and standard parental benefits starting January 16, 2022.

[4] Parental benefits can only be paid for a certain period after the date of the child's birth.<sup>1</sup> This is referred to as the "parental window."

[5] The Canada Employment Insurance Commission (Commission) looked at the date of the child's birth. It told the Appellant that she could be paid parental benefits until December 24, 2022. In other words, she could only receive 33 weeks of standard parental benefits, rather than the 35 weeks she had requested.

[6] The Appellant is asking for the final two weeks of standard parental benefits. She didn't know that taking vacation before claiming EI benefits would impact her ability to be paid the full amount of parental benefits.

## Issue

[7] Can the Appellant be paid parental benefits past December 24, 2022?

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<sup>1</sup> The parental window starts at either the week of the child's birth or the week of the child's placement with a claimant for the purpose of adoption. This is set out in subsection 23(2) of the EI Act.

## Analysis

[8] Parental benefits are intended to support you while you take time off work to care for your newborn child.<sup>2</sup>

[9] Parental benefits can only be paid within a specified period of time, called a parental window. For standard benefits, the parental window starts the week in which the child is born and ends 52 weeks after that week.<sup>3</sup>

[10] The following facts are not in dispute:

- The Appellant's child was born on December 21, 2021.<sup>4</sup>
- She chose to receive standard parental benefits.<sup>5</sup>
- She applied for maternity and parental benefits on January 29, 2022, and her benefit period started January 16, 2022.<sup>6</sup>

[11] The Commission says the Appellant's parental window is from December 19, 2021, to December 24, 2022.<sup>7</sup>

[12] I agree with the Commission's determination of the Appellant's parental window. This means she can't be paid parental benefits past December 24, 2022.

[13] The Appellant's child was born on December 21, 2021. So, her parental window starts on the Sunday before that date, December 19, 2021. The Appellant's chose to receive standard parental benefits. There is no evidence to show that the Appellant qualifies for an extension to her parental window.<sup>8</sup> This means her parental window

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<sup>2</sup> This is set out in section 23(1) of the EI Act

<sup>3</sup> The period during which benefits may be paid (in other words, the parental window) is set out in section 23(2) of the EI Act. This states that benefits are payable for 52 weeks after the week of the child's arrival.

<sup>4</sup> See GD3-7.

<sup>5</sup> See GD3-8.

<sup>6</sup> See GD3-3 to GD3-20, and GD4-1.

<sup>7</sup> See GD4-3.

<sup>8</sup> The criteria for an extension to the parental window are set out in sections 23(3) and 23(3.01) of the EI Act.

ends 52 weeks after the week of her child's birth. So, her parental window ends on December 24, 2022.

[14] I understand the Appellant will be disappointed with this result. I recognize that she was unaware that taking a few weeks of vacation before she started benefits would impact her claim. In dealing with cases where the resulting decision may seem unfair on its face, the Federal Court of Appeal has said:

...rigid rules are always apt to give rise to some harsh results that appear to be at odds with the objectives of the statutory scheme. However, tempting as it may be in such cases (and this may well be one), adjudicators are permitted neither to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning.<sup>9</sup>

[15] I sympathize with the Appellant's circumstances, but I have to apply the law as it is written. I have no authority to make special exceptions no matter how compelling the circumstances.<sup>10</sup>

[16] The Appellant is only able to be paid parental benefits within the parental window. The Appellant's parental window ended on December 24, 2022. So, she cannot be paid parental benefits after this date.

## **Conclusion**

[17] The appeal is dismissed.

Catherine Shaw  
Member, General Division – Employment Insurance Section

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<sup>9</sup> See *Canada (Attorney General) v Knee*, 2011 FCA 301 at para 9.

<sup>10</sup> This principle is stated in *Canada (Attorney General) v. Knee*, 2011 FCA 301