



Citation: *EG v Canada Employment Insurance Commission*, 2023 SST 1052

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

Decision

Appellant: E. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (563497) dated February 8, 2023
(issued by Service Canada)

Tribunal member: Audrey Mitchell

Type of hearing: In writing

Decision date: May 10, 2023

File number: GE-23-623

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 the Appellant doesn't have enough hours because he needs 700 hours but has only 125.

[6] The Appellant disagrees and says he worked 924 hours from November 22, 2021, to May 11, 2022.

Matter I have to consider first

The Appellant wasn't at the case conference

[7] The Tribunal invited the Appellant to a case conference to confirm his choice of format of hearing.² The Appellant didn't attend the conference. So, the hearing proceeded as a hearing in writing as he requested.³

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."

² Section 37 of the *Social Security Tribunal Rules of Procedures* says the Tribunal can hold a conference with the parties to talk about the appeal.

³ Section 2(1) of the *Social Security Tribunal Regulations* says the Tribunal has to hold the hearing in the format request by an appellant.

Issue

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

Analysis

How to qualify for benefits

[9] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.⁴ 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.

[10] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”⁵

[11] The number of hours depends on the unemployment rate in your region.⁶

The Appellant’s region and regional rate of unemployment

[12] The Commission decided that the Appellant’s region was Oshawa and that the regional rate of unemployment at the time was 5.2%.

[13] This means that the Appellant would need to have worked at least 700 hours in his qualifying period to qualify for EI benefits.⁷

[14] The Commission used the Appellant’s address from his application for benefits to determine which region and regional rate of unemployment applies to him. The Appellant didn’t comment on this. According to the address listed in his notice of appeal, the Appellant continues to live in the same region.

⁴ See section 48 of the EI Act.

⁵ See section 7 of the EI Act.

⁶ See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

⁷ 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.

[15] There is no evidence that makes me doubt the Commission's decision. So, I accept as fact that the Appellant needs to have worked 700 hours to qualify for benefits.

The Appellant's qualifying period

[16] 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.⁸

[17] 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.

[18] The Commission decided that the Appellant's qualifying period was shorter than the usual 52 weeks because the Appellant had an earlier benefit period that started on May 15, 2022.

[19] Your current qualifying period can't overlap with an earlier qualifying period. The Appellant's qualifying period would overlap with his earlier qualifying period if it went back to a time before May 15, 2022.

[20] So, the Commission decided that the Appellant's qualifying period was 28 weeks and went from May 15, 2022, to December 3, 2022.

– The Appellant doesn't agree with the Commission

[21] The Appellant disagrees with the Commission about his qualifying period. He says that his qualifying period should be longer and should include the 924 hours he worked from November 22, 2021, to May 11, 2022.

[22] The Commission says the Appellant established an earlier benefit period on May 15, 2022. It says he served a one-week period from May 15, 2022, to May 21, 2022. Then he got one week of sickness benefits from May 22, 2022, to May 28, 2022. The

⁸ See section 8 of the EI Act.

Commission says the Appellant then got regular benefits from May 29, 2022, to the week of September 18, 2022.

[23] In response to a question from the Tribunal, the Commission clarified that the Appellant had received his full entitlement to 17 weeks of regular benefits to September 24, 2022.

[24] The Appellant responded to the Commission's answer to the Tribunal's question. He says his position was terminated on May 12, 2022, and a claim was established on May 17, 2022.

[25] I give more weight to the date the Commission gives for the start of the Appellant's earlier benefit period. This is because the law says that benefit periods start on a Sunday.⁹ So I find the Appellant had a earlier benefit period that started on May 15, 2022.

[26] The Appellant said in his response to the Commission's answer that normally EI benefits last about 45 weeks.

[27] The number of weeks of benefits paid in a benefit period depends on the unemployment rate in your region and the number of hours worked in the qualifying period.¹⁰ The Appellant referred to the 924 hour he worked between November 2021 and May 2022.

[28] In the absence of evidence that the Appellant worked more than 924 hours in the earlier qualifying period, I accept the Commission's submission that the Appellant received his full entitlement to 17 weeks of EI benefits as fact.

[29] The law says a benefit period ends when no further benefits are payable.¹¹ So, I find the Appellant's earlier benefit period ended on September 24, 2022. This is when the Appellant had received the maximum number of weeks of regular benefits. I find

⁹ Section 10(1) of the EI Act sets this out.

¹⁰ See section 12(2) of the EI Act. This section refers to Schedule 1 that is used to determine the maximum number of weeks of benefits.

¹¹ Section 10(8) of the EI Act sets this out.

that he has to start a new benefit period, which means that his qualifying period starts from the beginning of his earlier benefit period.

[30] Since the Appellant had an earlier benefit period that started on May 15, 2022, I find that his qualifying period is from May 15, 2022, to December 3, 2022.

The hours the Appellant worked

– The Appellant doesn't agree with the Commission

[31] The Commission decided that the Appellant had worked 125 hours during his qualifying period. The Appellant disputed this, saying that he had worked more hours than that. But I have already found that he worked the 924 hours he referred to in an earlier qualifying period.

[32] The Appellant's employer issued a record of employment. It shows the Appellant worked 125 hours from July 18, 2022, to August 16, 2022. The Appellant hasn't shown that he worked for another employer in his qualifying period from May 15, 2022, to December 3, 2022. So, I find that the Appellant worked 125 hours in his qualifying period.

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

[33] I find that the Appellant hasn't proven that he has enough hours to qualify for benefits because he needs 700 hours but has worked 125 hours.

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

[35] 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.¹²

¹² See *Pannu v Canada (Attorney General)*, 2004 FCA 90.

Conclusion

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

[37] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section