



Citation: *AZ v Canada Employment Insurance Commission*, 2023 SST 960

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

## Decision

**Appellant:** A. Z.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (590458) dated June 5, 2023 (issued by Service Canada)

---

**Tribunal member:** Glenn Betteridge

**Type of hearing:** In writing

**Decision date:** July 17, 2023

**File number:** GE-23-1559

## **Decision**

[1] I am dismissing A. Z.'s appeal.

[2] She hasn't shown she worked enough hours to qualify for Employment Insurance (EI) benefits.

## **Overview**

[3] A. Z. (the Appellant) applied for EI sickness benefits on March 15, 2023.

[4] The Canada Employment Insurance Commission (Commission) considered her claim under three different sections of the law. It decided she hadn't worked enough hours to qualify under any of those sections.

[5] The Appellant disagrees. She says she had two surgeries, about six months apart. She applied for benefits after the second surgery (March 2023). In between her first surgery (September 2022) and her second surgery she worked very few hours, because of her health.

[6] The Appellant asked for her hearing to be "in writing". So I have made this decision based on the documents she and the Commission sent to the Tribunal.

## **Issue**

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

## Analysis

### How to qualify for benefits

[8] Not everyone who stops work can get EI benefits. You have to prove that you qualify for benefits.<sup>1</sup>

[9] The Appellant has to prove this on a balance of probabilities. This means that she has to show it's more likely than not she qualifies for benefits.

[10] In general, the **number of hours** you need to qualify for benefits depends on the unemployment rate in the region where you live.<sup>2</sup> The number of hours you need can also depend on the benefits you are applying for. For example, there are different rules for special benefits, including EI sickness benefits.

[11] To qualify, you need to have worked that number of hours within a certain period of time. This period of time is called the **qualifying period**.<sup>3</sup>

[12] In general, a **qualifying period** is the 52 weeks **immediately before** your **benefit period** would start.<sup>4</sup>

[13] Qualifying periods and benefit periods are counted in weeks, and each week starts on a Sunday.<sup>5</sup>

[14] When it decided the Appellant's claim, the Commission considered three different rules the Appellant could use to show she had enough hours to qualify for EI benefits. These rules come from the *Employment Insurance Act* (EI Act) and the *Employment*

---

<sup>1</sup> See section 48 of the *Employment Insurance Act* (EI Act.)

<sup>2</sup> See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations* (EI Regulations).

<sup>3</sup> See section 7 of the EI Act.

<sup>4</sup> Section 8(1) of the EI Act sets out the rules for determining a person's qualifying period. Section 8(1)(a) sets the 52-week rule. Under section 10(1) of the EI Act, a **benefit period begins** on the Sunday of the earlier of the week in which the person's earnings are interrupted, and the week a person made their initial claim or benefits.

<sup>5</sup> See sections 8(1) and 10(1) of the EI Act.

*Insurance Regulations* (EI Regulations). I will consider the three rules, one after the other.

### **Sickness benefits—600 hours in your qualifying period**

[15] The Appellant applied for EI sickness benefits. She can qualify for those benefits with **600 hours** in her qualifying period.<sup>6</sup>

[16] The Commission says:

- based on the date she applied for EI her **qualifying period is March 20, 2022 to March 18, 2023**<sup>7</sup>
- she worked **467 hours** during her qualifying period

[17] The Appellant hasn't challenged the Commission's calculation of her insurable hours. But she says she had many weeks where she wasn't able to work because she was sick—I will consider this argument in the next section (extended qualifying period).

[18] I have reviewed the Commission's evidence. I accept that evidence because I have no reason to doubt what it shows about whether she qualifies for the sickness benefit under section 93 of the EI Regulations. What the Commission told the Appellant is slightly different from what it wrote in the decision letter and its representations, and different from the hours on her records of employment.<sup>8</sup> But all of that evidence shows the Appellant had **less than 600 hours** in her qualifying period—between 467 and 486 insurable hours.

[19] So, based on her **qualifying period**, I find the Appellant doesn't have enough hours to qualify for EI sickness benefits under section 93 of the EI Regulations. She has less than the 600 hours she needs to qualify.

---

<sup>6</sup> Section 93 of the EI Regulations says this.

<sup>7</sup> See section 8(1)(a) of the EI Act for the law that sets an EI claimant's qualifying period.

<sup>8</sup> See the Commission's decision letter at GD3-42 (467 insurable hours); the Commission's representations at GD4-1 (467 insurable hours), the Appellant's records of employment at GD3-21 (390 insurable hours) and GD3-23 (96 insurable hours), and the Commission's notes of its call with the Appellant at GD3-46 (469 insurable hours).

## **Sickness benefits—600 hours in your *extended* qualifying period**

[20] Because the Appellant applied for EI sickness benefits, her **qualifying period can be extended** by any period when she was incapable of work because of her illness or injury.<sup>9</sup> Any period when she was receiving EI benefits doesn't count towards the length of the extension.<sup>10</sup>

[21] The law places two limits on how far back her qualifying period can be extended. Her extended qualifying period can't be more than 104 weeks.<sup>11</sup> And, if she had a previous benefit period (in other words, a previous EI claim), her extended qualifying period can't start before the beginning of that claim.<sup>12</sup>

[22] She needs to prove she had worked **600 hours** in her extended qualifying period.<sup>13</sup>

[23] The Commission says:

- her normal qualifying period is March 20, 2022 to **March 18, 2023**<sup>14</sup>
- based on the doctors' notes she sent in, she was unable to work for medical reasons from September 9, 2022 to January 17, 2023<sup>15</sup>
- so her qualifying period can be extended for 20 weeks, going backwards in time from March 20, 2022

---

<sup>9</sup> See section 8(2)(a) of the EI Act.

<sup>10</sup> See section 8(5) of the EI Act.

<sup>11</sup> See section 8(7) of the EI Act.

<sup>12</sup> See section 8(1) of the EI Act. Under section 10(1) of the EI Act, a **benefit period begins** on the Sunday of the earlier of the week in which the person's earnings are interrupted, and the week a person made their initial claim or benefits.

<sup>13</sup> Section 93 of the EI Regulations says this.

<sup>14</sup> See section 8(1)(a) of the EI Act for the law that sets an EI claimant's qualifying period.

<sup>15</sup> See the three doctors' notes at GD3-25 to GD3-27.

- but she had a previous claim for sickness benefits, which began on **January 23, 2022**<sup>16</sup>--so her qualifying period can only be extended backwards to that date
- so her **extended qualifying period is January 23, 2022 to March 18, 2023**
- she worked **476 hours** during her extended qualifying period

[24] The Appellant hasn't challenged the Commission's calculation of her insurable hours during her extended qualifying period. And she hasn't challenged what the Commission says about her extended qualifying period.

[25] I have reviewed the Commission's evidence. I accept that evidence because I have no reason to doubt what it shows. And there is no evidence that goes against it.

[26] So, based on her **extended qualifying period** and insurable hours (467 hours), I find the Appellant doesn't qualify for EI sickness benefits. She has less than the 600 hours she needs to qualify.

### **Regular benefits—qualifying hours based on your region and regional rate of unemployment**

[27] Because the Appellant didn't qualify for the EI sickness benefit, the Commission considered whether she could qualify for EI regular benefits. The law sets the number of insurable hours a person needs to qualify for regular benefits based on the **region where they live** and the **rate of unemployment in that region**.<sup>17</sup>

[28] The Commission says:

- the Appellant's region—based on her postal code—is Southern Alberta<sup>18</sup>

---

<sup>16</sup> See the attestation certificate for the Appellant last claim for EI (also sickness benefits) and payment history for that claim at GD3-30 to GD3-32. The Commission says although she established the claim starting January 23, 2022 (in other words, the beginning of the benefit period), no benefits were paid on the claim until September 11, 2022.

<sup>17</sup> See section 7(2) of the EI Act.

<sup>18</sup> See GD3-33 and GD3-34.

- the regional rate of unemployment when she applied for EI was 6.8%<sup>19</sup>
- so she **needed 665 hours** to qualify
- she **worked 467 hours** during her qualifying period

[29] The Appellant hasn't challenged the Commission's determination of her insurable hours, the region where she lives, the regional rate of unemployment, or the number of hours needed in that region to qualify for EI regular benefits.

[30] I have reviewed the Commission's evidence. I accept the region and regional rate of unemployment the Commission used, and the number of hours it says she needs to qualify. I have no reason to doubt the Commission's evidence about these things. And there is no evidence that goes against that.

[31] So, based on her qualifying period and her insurable hours (467 hours), I find the Appellant doesn't qualify for **EI regular benefits**. She has less than the 665 hours she needs to qualify.

[32] EI is an insurance plan. Like other insurance plans, every person who applies for benefits has to meet certain requirements to get those benefits. Unfortunately for the Appellant, she didn't work enough insurable hours to qualify for EI benefits (sickness or regular).

[33] I sympathize with the Appellant's situation. But I don't have the legal power to decide her appeal based on fairness or on financial need. I have to follow the law—I can't change it.<sup>20</sup>

---

<sup>19</sup> See GD3-35 to GD3-37..

<sup>20</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.

## **Conclusion**

[34] The Appellant hasn't proven she worked enough hours to qualify for EI benefits.

[35] This means I have to dismiss her appeal.

Glenn Betteridge

Member, General Division – Employment Insurance Section