



Citation: *JK v Canada Employment Insurance Commission*, 2023 SST 1234

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: J. K.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (580574) dated April 17, 2023 (issued by Service Canada)

Tribunal member: Suzanne Graves

Type of hearing: Videoconference

Hearing date: July 13, 2023

Hearing participant: Appellant

Decision date: July 27, 2023

File number: GE-23-1306

Decision

[1] The appeal is dismissed.

[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 he hasn't worked enough hours to qualify.¹

[4] I have to decide whether the Appellant has worked enough hours to qualify for EI benefits. The Commission says that the Appellant doesn't have enough hours because he needs 700 hours but has only worked 623 hours.

[5] The Appellant says he couldn't work all 700 hours needed to qualify for benefits because of his personal circumstances. He argues that he is only about 80 hours short and needs the financial assistance to help him find a new job.

Matters I have to consider first

I accepted documents sent in after the hearing

[6] After the hearing, the Appellant sent in documents related to hours he worked for a previous employer, and his period of unemployment.² On July 24, 2023, the Appellant also sent in a new record of employment (ROE).³ I accepted the documents as they are relevant to the issues before the Tribunal. I also asked the Commission for its arguments whether the Appellant's qualifying period could be extended to include hours worked at his previous employment. The Commission made additional representations.⁴ The Tribunal shared the post-hearing documents with each party.

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 The Appellant's post-hearing documents are at GD6 and GD9.

³ The Appellant's additional document is at GD10.

⁴ The Commission's representations are at GD8.

Issue

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

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.⁵ 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.”⁶ The number of hours depends on the unemployment rate in your region.⁷

The Appellant’s region and regional rate of unemployment

[10] The Commission decided that the Appellant’s region was Toronto and the regional rate of unemployment at the time was 5.9%.⁸ This means that the Appellant would need to have at least 700 hours in his qualifying period to qualify for EI benefits.⁹

[11] The Appellant doesn’t dispute the Commission’s decisions about which region and regional rate of unemployment apply to him. There is no evidence that makes me doubt the Commission’s decision about the number of hours the Appellant must have worked.

[12] So, I accept as fact that the Appellant needs to have 700 hours to qualify for benefits.

⁵ See section 48 of the EI Act.

⁶ See section 7 of the EI Act.

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

⁸ See GD3-19 to 21.

⁹ 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

[13] 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.¹⁰

[14] 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.

[15] The Commission decided that the Appellant's qualifying period went from February 27, 2022, to February 25, 2023.

[16] A claimant's qualifying period can be extended in some circumstances. I asked the Commission for its arguments on whether the Appellant's qualifying period could be extended to include some hours worked at his previous employment. The Commission says that the Appellant doesn't meet any of the conditions to extend his qualifying period and that he had used some hours from his previous employment in an earlier EI claim.¹¹

[17] I considered whether any hours could be included from the Appellant's previous employment ending on March 12, 2021, or on July 31, 2021. He sent in medical records showing he had been unable to return to his previous full-time job. But he didn't show that he met any conditions to extend his qualifying period. So, I accept as fact that the Appellant's qualifying period is from February 27, 2022, to February 25, 2023.

The hours the Appellant worked

[18] The Commission reviewed the Appellant's ROE for his employment ending on February 22, 2023, and decided that the Appellant had worked 623 hours during his qualifying period.¹²

¹⁰ See section 8 of the EI Act.

¹¹ The Commission confirmed that it had previously considered the possibility of extending the Appellant's qualifying period and included a pay history chart showing benefits paid under an earlier claim at GD8-3.

¹² The Appellant's record of employment for his employment ending on February 22, 2023, is at GD3-17.

[19] The Appellant doesn't dispute the number of hours shown on his ROE, and there is no evidence that makes me doubt it. So, I accept it as fact.

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

[20] I find that the Appellant hasn't proved that he has enough hours to qualify for regular EI benefits because he needs at least 700 hours but has worked 623 hours.

[21] The Appellant says he is only about 80 hours short and that he has found it difficult to find more work because of his disability. He argues that he needs the financial assistance while he looks for a new job.

[22] I sympathize with the Appellant's situation. But EI is an insurance plan, and like other insurance plans, you have to meet certain requirements to receive benefits. I can't change the law or make exceptions, even on the basis of compassion.¹³

[23] In this case, the Appellant doesn't meet the *Employment Insurance Act* requirements, so he unfortunately doesn't qualify for benefits.

Conclusion

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

[25] The law requires me to dismiss the appeal.

Suzanne Graves
Member, General Division – Employment Insurance Section

¹³ *Pannu v Canada (Attorney General)*, 2004 FCA 90; see also *Attorney General (Canada) v Lévesque*, 2001 FCA 304.