



Citation: *HZ v Canada Employment Insurance Commission*, 2023 SST 1335

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

Decision

Appellant: H. Z.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (536842) dated October 20, 2022 (issued by Service Canada)

Tribunal member: Edward Houlihan

Type of hearing: Teleconference

Hearing date: April 12, 2023

Hearing participant: Appellant

Decision date: June 15, 2023

File number: GE-22-3895

Decision

[1] The appeal is dismissed.

[2] The Appellant was outside of Canada and not entitled to Employment Insurance (EI) benefits. He didn't qualify under the exceptions to the rule.

Overview

[3] The Appellant established a claim for regular EI benefits beginning April 10, 2022. He was outside of Canada from May 10, 2022, until July 8, 2022. He was outside of Canada longer, but the appeal only deals with the period from May 18, 2022, until July 8, 2022.

[4] The Appellant says he left Canada to attend the funeral service of his sister. and then he stayed outside of Canada to take care of his sick father.

[5] The Employment Insurance Act (EI Act) says that you are not entitled to EI benefits when you are outside Canada.¹ There are a few exceptions to that rule under the Regulations.²

[6] The Canada Employment Insurance Commission (Commission) allowed the Appellant benefits for seven days to attend the funeral of his sister. That is one of the exceptions to the rule³.

[7] The Commission denied the Appellant benefits for another seven-day period to take care of his father.

[8] The Commission also denied the Appellant benefits from May 18, 2022, to July 8, 2022, because he was outside of Canada.

¹ See the *Employment Insurance Act* (Act) section.37(b)

² See the Act Regulations. section 55

³ See the Act Regulations section 55 (1)(b)

[9] The Appellant says he is entitled to receive benefits for a seven-day period while he took care of his father. He says it falls within an exception to the rule.⁴

[10] He also says he is entitled to EI benefits from May 18, 2022, to July 8, 2022. He continued his job search. He could be reached without delay and was ready to return to Canada within 48 hours if he had a job offer. He says he was available for work.

Issues

[11] Is the Appellant entitled to benefits for another seven-day period to care for his father? Is the Appellant entitled to benefits while outside of Canada under the exceptions to the rule? If he does fall under the exceptions to the rule, was he available for work?

Analysis

[12] The Appellant is not entitled to another seven-day period of benefits when he took care of his father. He is not entitled to benefits while he was outside of Canada from May 18, 2022, to July 8, 2022. He did not show that he qualified for benefits under the exceptions to the rule. Because he isn't entitled to benefits, there is no need to decide if he was available for work while outside of Canada.

Seven-Day Period

[13] There is no dispute that the Appellant was outside of Canada from May 11, 2022, to July 8, 2022.

[14] The law says that you are not entitled to receive benefits for any period that you are outside Canada.⁵ There are some exceptions.⁶

[15] The Appellant was allowed benefits for seven days while he was outside of Canada to attend the funeral of his sister. That is one of the exceptions to the rule⁷.

⁴ See the Act Regulations section 55 (1)(d)

⁵ See Act s. 37 (b)

⁶ See Act Regs. s. 55

⁷ See Act Regulations Section 55 (1)(b)

[16] The Appellant asked for benefits for another seven days following his sister's funeral because he stayed outside of Canada to care for his sick father. There is an exception that you can receive benefits for seven days while outside of Canada to visit a member of your immediate family who is seriously ill.⁸

[17] The Commission denied benefits for this seven-day period. The law says you can only receive benefits for another seven-day period on the same trip outside of Canada if the family member you went to visit unfortunately passes away and you stay for the funeral.⁹

[18] The Appellant admits that he went to his sister's funeral and stayed to care for his father on the same trip outside of Canada. The Appellant doesn't meet the requirements of this exception to the rule

[19] I agree with the Commission. The Appellant is not entitled to a seven-day period of benefits when he stayed to care for his father.

Exceptions to the rule when outside Canada

[20] The cases say that E I benefits are not payable to anyone who is outside of Canada unless they fall within the exceptions that are set out in the Regulations.¹⁰

[21] The exceptions include when you are outside of Canada:

- receiving medical treatment
- attending a funeral of a family member
- going with a family member for medical treatment
- going to a job interview

⁸ See Act Regs s.55(1)(d)

⁹ See Act Regs s.55(1.1)

¹⁰ See *Canada (AG) v. Gibson*, 2012 FCA 166

- looking for a job¹¹

[22] The cases say that it is up to the Appellant to show that their absence from Canada fell within the exceptions to the rule. . .¹²

[23] The Appellant says he is entitled to EI benefits because he continued his job search and was available for work while caring for his father. He says he did everything as if he was in Canada.

[24] It is commendable that the Appellant continued his job search and cared for his father while outside Canada. However, this doesn't make him eligible to receive benefits while outside Canada.

[25] The law is very specific that you are not entitled to benefits while outside of Canada unless you fall within the limited exceptions to the rule.¹³

[26] . I find that the Appellant did not show, on the balance of probabilities, that his absence from Canada fell within the exceptions to the rule. He is not entitled to receive benefits while outside of Canada.

Available for work

[27] . The question whether you are available for work while outside Canada only needs to be answered when you have shown that you met the requirements of one of the exceptions to the rule.

[28] Because the Appellant hasn't shown that his absence from Canada fell within the exceptions to the rule, I do not have to consider whether he was available for work while outside of Canada.

¹¹ See the Act Regulations section 55

¹² See *Canada (AG) v. Peterson*, A-370-95

¹³ See the Act section 37

Conclusion

[29] The Appellant is not entitled to receive benefits from May 18, 2022, to July 8, 2022.

[30] The appeal is dismissed.

Edward Houlihan
Member, General Division – Employment Insurance Section