



Citation: *CL v Canada Employment Insurance Commission*, 2023 SST 1342

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

Decision

Appellant: C. L.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (594528) dated June 14, 2023 (issued by Service Canada)

Tribunal member: Gary Conrad
Type of hearing: Teleconference
Hearing date: August 10, 2023
Hearing participant: Appellant
Decision date: August 17, 2023
File number: GE-23-1773

Decision

[1] The appeal is dismissed.

[2] The Appellant cannot get more than 14 weeks of Employment Insurance (EI) benefits. According to the law, with an unemployment rate of 4.2% and 725 hours of work in his qualifying period, he is only entitled to 14 weeks of EI benefits.

[3] Also, he cannot get an additional five weeks of EI benefits as that additional top-up of weeks is only for seasonal workers who **live** in the Yukon, not who worked in the Yukon.

Overview

[4] The Appellant applied for EI benefits on August 25, 2022.

[5] In May 2023, he filed a request for reconsideration as he says that he only got 14 weeks of EI benefits on 900 hours of work, and he should have gotten far more.

[6] The Commission performed a review as the Appellant requested and upheld their initial decision the Appellant was only entitled to 14 weeks of EI benefits.

[7] The Appellant says that he should get far more than 14 weeks of benefits as all his hours of work from X should be taken into consideration.

[8] The Appellant also says that since he was working in the Yukon, he should get five extra weeks of EI as there is a program in place to give people working up north more weeks of EI.

Issue

[9] Can the Appellant be paid more weeks of EI benefits?

Analysis

[10] The number of weeks of EI benefits a person will get is based on the number of hours of work they have in their qualifying period and the unemployment rate of their economic region at the time they apply.¹

[11] So, to determine how many weeks of EI the Appellant can get, I need to find his qualifying period, the hours of work he has in his qualifying period, and the unemployment rate applicable to him.

Qualifying period

[12] Generally, the qualifying period is the 52 weeks prior to the start of the benefit period. In other words, counting backwards from the day before the benefit period starts.²

[13] The Commission says that the Appellant's qualifying period is from August 15, 2021, to August 13, 2022, because that is the 52 weeks prior to the start of the Appellant's benefits period and there are no grounds to extend the benefit period.

[14] The Appellant says the Commission's submissions make no sense. He says 52 weeks is a year, so the qualifying period should be from August 1, 2021, to August 1, 2022.

[15] I find the Appellant's qualifying period should be from August 15, 2021, to August 13, 2022.

[16] The Appellant's benefit period was started on August 14, 2022. Counting backwards 52 weeks from the day prior to that date, so from August 13, 2022, backwards 52 weeks, gives a qualifying period of August 15, 2021, to August 13, 2022.

¹ Section 12(2) of the *Employment Insurance Act* (Act) says that the number of weeks of benefits that will be paid to a person is based on the table in Schedule I. The table in Schedule I determines the weeks of EI based on the number of hours of work in the qualifying period and the unemployment rate in the person's economic region.

² Section 8(1) of the Act

[17] I further find there is no evidence to support the Appellant meets any of the criteria to extend his qualifying period.³

[18] So, this means the Appellant's qualifying period is the standard 52 weeks and runs from August 15, 2021, to August 13, 2022.

Hours of work in the qualifying period

[19] Now that I have determined the Appellant's qualifying period is from August 15, 2021, to August 13, 2022, I can look to see how many hours of work he has in that qualifying period.

[20] The Commission says that the Appellant worked for multiple employers in 2021 and 2022. In considering all the hours of work with his multiple employers that falls in his qualifying period, he has 725 hours of work.

[21] The Appellant says that he does not understand why the Commission used hours of work from 2021 since he filed his application in 2022. He says that what should be used is his work from X because he filed his application in 2022 and X is the only employer he worked for in 2022.

[22] The Appellant says that his employer X split up his Record of Employment (ROE) into two ROE's rather than putting it all on one. He says that he did a few weeks of work for X in the Yukon, came back home to Manitoba for a few weeks and then flew back to the Yukon for more work with X.

[23] I find that I accept as fact the Commission's submission that the Appellant has 725 hours in his qualifying period as he has not proven, on a balance of probabilities, that the Commission's calculation is wrong.

³ The reasons to extend a qualifying period are; if the Appellant was unable to work due to illness or injury during his qualifying period, was being held in jail and found not guilty for the offence he was being held for, or was receiving assistance under an employment benefit program. See Section 8(2) of the Act. I also note the Appellant's application where he answered "no" to these questions. See GD03-8

[24] The only hours that can be considered in determining how many weeks of EI the Appellant gets are those that fall in his qualifying period.⁴ This is why some of the hours the Appellant worked in 2021 are included in the Commission's determination of how many hours he has because some of his work in 2021 is within his qualifying period.

[25] However, this is also why the hours from his second ROE with X cannot be included in determining how many weeks of EI he gets.

[26] The second ROE from X says that he worked for them from August 31, 2022, to September 23, 2022.⁵ This period of time is outside his qualifying period of August 15, 2021, to August 13, 2022. For hours of work to be considered in deciding how many weeks of EI he gets, the work had to be done in the qualifying period of August 15, 2021, to August 13, 2022.

[27] The Appellant argued that he is not sure he filed his application for EI benefits between his stints working for X. He says it would not make sense for him to have filed for benefits when he came back from his first time working for X in the Yukon because he knew he would be going back in a few weeks.

[28] Regardless of the Appellant's thoughts of when he **should** have filed his application, he **did** file his application on August 25, 2022, as shown by the digital filing date on the application.⁶

[29] This means that all the work done for X from August 31, 2022, to September 23, 2022, cannot be included in determining how many weeks of EI he gets since all that work is after his application for EI, which means it is outside his qualifying period.

⁴ *Haile v. Canada (Attorney General)* 2008 FCA 193 <https://decisions.fca-cf.gc.ca/fca-caf/decisions/en/item/36018/index.do> upholding CUB 68694 which says that you cannot use hours outside of the qualifying period.

⁵ GD03-29

⁶ GD03-14

Rate of unemployment

[30] The unemployment rate applicable to the Appellant is the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week his benefit period would start.⁷

[31] Since the Appellant's benefit period would start August 14, 2022, the rate for the week of August 7, 2022, is what is applicable to the Appellant.

[32] The information provided by the Commission from Statistics Canada shows that the regional rate of unemployment for the Appellant's EI Economic Region of Winnipeg is 4.2%.

[33] So, I accept as fact that the unemployment rate applicable to the Appellant is 4.2%. I note the Appellant did not dispute this.

Weeks of EI benefits

[34] So, now that I know the unemployment rate applicable to the Appellant (4.2%) and how many hours he has in his qualifying period (725) I can figure out how many weeks of EI benefits he is eligible for.

[35] According to the table in Schedule I in force at the time of the Appellant's application, (reproduced below) with an unemployment rate of 4.2%, and 725 hours of employment in his qualifying period, he is only eligible for 14 weeks of EI.⁸

⁷ See section 17(1)(a) of the EI Regulations and [Canada \(Attorney General\) v. Jewett, 2013 FCA 243](#)

⁸ See the table in Schedule I in force at the time of the Appellant's application. <https://laws-lois.justice.gc.ca/eng/acts/E-5.6/20220623/P1TT3xt3.html>

SCHEDULE I
(Subsection 12(2))

Table of Weeks of Benefits

Number of hours of insurable employment in qualifying period	Regional Rate of Unemployment											
	6% and under	More than 6% but not more than 7%	More than 7% but not more than 8%	More than 8% but not more than 9%	More than 9% but not more than 10%	More than 10% but not more than 11%	More than 11% but not more than 12%	More than 12% but not more than 13%	More than 13% but not more than 14%	More than 14% but not more than 15%	More than 15% but not more than 16%	More than 16%
420–454	14	14	14	16	18	20	22	24	26	28	30	32
455–489	14	14	14	16	18	20	22	24	26	28	30	32
490–524	14	14	15	17	19	21	23	25	27	29	31	33
525–559	14	14	15	17	19	21	23	25	27	29	31	33
560–594	14	14	16	18	20	22	24	26	28	30	32	34
595–629	14	14	16	18	20	22	24	26	28	30	32	34
630–664	14	15	17	19	21	23	25	27	29	31	33	35
665–699	14	15	17	19	21	23	25	27	29	31	33	35
700–734	14	16	18	20	22	24	26	28	30	32	34	36

The five extra weeks

[36] The Appellant says that since he was working up north in the Yukon, he is eligible for 5 extra weeks of EI.

[37] While the Appellant is correct that there is a program in place to pay an extra five weeks of EI to certain people, it is only for people who are considered seasonal workers⁹ and I see no evidence the Appellant is a seasonal worker.

[38] However, even if I am wrong and the Appellant is a seasonal worker, he could still not get the extra 5 weeks, as it can only be paid to seasonal workers who **live** in certain areas.¹⁰ Yes, the Yukon is one of those certain areas, but a seasonal worker must **live** in the Yukon to get the extra five weeks and the Appellant does not live in the

⁹ See section 12(2.3) of the Act

¹⁰ See section 12(2.3)(b) of the Act and Schedule VI which lists the regions a seasonal worker must live to get the extra five weeks.

Yukon, he only worked there. The Appellant lives in Winnipeg and that is not one of the areas that allows for the extra five weeks to be paid to seasonal workers. In fact, there is no area in Manitoba that qualifies for the extra five weeks for seasonal workers.¹¹

Summary

[39] So, in summary, the Appellant's work with X from August 31, 2022, to September 23, 2022, cannot be used to determine how many weeks of EI he is eligible for because it is outside his qualifying period and only hours in his qualifying period can be used.

[40] In the Appellant's qualifying period of August 15, 2021, to August 13, 2022, he only has 725 hours of work. According to the *Employment Insurance Act*, with 725 hours of work, and an unemployment rate of 4.2% in his region at the time of his application, he is only eligible for 14 weeks of EI benefits.

[41] Further, he cannot get an extra five weeks for working in the Yukon as the extra five weeks is only available to seasonal workers (and it is not even clear if the Appellant is a seasonal worker) who **live** in the Yukon. The Appellant does not live in the Yukon, he lives in Manitoba.

¹¹ See here for a more straightforward explanation of the areas in which a seasonal worker has to live in order to get benefits: [Additional Employment Insurance regular benefits for seasonal workers in targeted regions - Canada.ca](https://www.canada.ca/en/employment-insurance/regular-benefits-for-seasonal-workers-in-targeted-regions)

Conclusion

[42] The appeal is dismissed.

[43] With 725 hours of work, and an unemployment rate of 4.2% in his region at the time of his application, he is only eligible for 14 weeks of EI benefits.

[44] He also cannot get the extra five weeks of benefits he was asking about because he has not proven he is a seasonal worker, and even if he is, he does not live in one of the places that allows for him to paid the extra five weeks.

Gary Conrad

Member, General Division – Employment Insurance Section